

Los Angeles County Board of Supervisors

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September 16, 2008

The Honorable Board of Supervisors County of Los Angeles 383 Kenneth Hahn Hall of Administration 500 West Temple Street Los Angeles, CA 90012

Dear Supervisors:

APPROVAL OF AMENDMENTS TO SIX MEDICAL AND RADIOLOGY REPORTS TRANSCRIPTION SERVICES AGREEMENTS (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

<u>SUBJECT</u>

To request approval to amend the six current medical, radiology reports, and overflow medical transcription services agreements to extend the term for an additional 12 months through September 30, 2009.

IT IS RECOMMENDED THAT YOUR BOARD:

- 1. Approve and instruct the Chair to sign Proposition A (Prop A) Radiology Reports Transcription Services Amendment No. 7 to Agreement No. 72049 (Exhibit I) with MedQuist Transcriptions, Ltd. (MedQuist) for services provided at Los Angeles County+USC Healthcare Network (LAC+USC) and Martin Luther King Jr. Multi-Service Ambulatory Care Center (MLK MACC), to extend the Agreement term for an additional 12 months effective October 1, 2008 through September 30, 2009, under the same rates and terms, for an estimated total amount of \$1,227,159 for the 12 months.
- 2. Approve and instruct the Chair to sign Prop A Medical Transcription Services Amendment No. 13 to Agreement No. 70282 (Exhibit II) with MedQuist for services provided at Olive View/UCLA Medical Center (OVMC) and High Desert Health System (HDHS), to extend the Agreement term for an additional 12 months effective October 1, 2008 through September 30, 2009, under the same rates and terms, for an estimated total amount of \$723,000 for the 12 months.
- 3. Approve and instruct the Chair to sign Prop A Medical Transcription Services Amendment No. 8 to Agreement No. 71386 (Exhibit III).

with MedQuist for services provided at MLK MACC, to extend the Agreement term for an additional 12 months effective October 1, 2008 through September 30, 2009, under the same rates and terms, for an estimated amount of \$29,867 for the 12 months.

- 4. Approve and instruct the Chair to sign Prop A Medical Transcription Services Amendment No. 7 to Agreement No. 74108 (Exhibit IV), with MedQuist for services provided at Harbor-UCLA Medical Center (Harbor), to extend the Agreement term for an additional 12 months effective October 1, 2008 through September 30, 2009, under the same rates and terms, for an estimated amount of \$972,011 for the 12 months.
- 5. Approve and instruct the Chair to sign Prop A Medical Transcription Services Amendment No. 6 to Agreement No. 72144 (Exhibit V) with PeopleSupport RapidText, Inc. (PSRT), for services provided at Rancho Los Amigos National Rehabilitation Center (Rancho), to extend the Agreement term for an additional 12 months effective October 1, 2008 through September 30, 2009, under the same rates and terms, for an estimated amount of \$193,753 for the 12 months.
- 6. Delegate authority to the Interim Director of the Department of Health Services, or his designee, to execute Amendment No. 8 to Overflow Medical Transcription Service Agreement No. H-209835 (Exhibit VI) for services at LAC+USC with PSRT, to extend the Agreement term for an additional 12 months effective October 1, 2008 through September 30, 2009, under the same rates and terms, for an estimated amount of \$1,992,000 for the 12 months.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Board approval to extend the term of the existing Agreements is necessary to ensure that delivery of vital medical, radiology reports, and overflow transcription services continues uninterrupted at various Department of Health Services (DHS or Department) medical facilities during the completion of the solicitation process for replacement agreements. The current Agreements expire on September 30, 2008. The department planned to submit this Board letter for the September 2, 2008 agenda in order to meet the timely submission requirements but the internal Board letter and contract review process took longer than anticipated and therefore the filing was delayed.

The Department previously advised your Board that the solicitation for medical transcription services would be released by the end of 2007, with an expectation that successor agreements would be approved prior to the expiration of the current Agreements. It was

expected that a single Request for Proposals (RFP) document would be issued, although the scope of work varies by facility, which would provide for continued digital medical transcription services as a Prop A contract, as well as allow for future phased implementation of Speech Recognition technology for various departments at each medical facility which would not be a Prop A contract.

During RFP development, concerns were raised within the Department about the costs associated with replacing the current contractors if the RFP resulted in new contractors for the continuing digital medical transcription services. The RFP was delayed while the Department analyzed the option of renegotiating the current contracts for digital medical transcription current services and then doing an RFP for voice recognition versus a solicitation for both. After consultation with County Counsel, the Department determined the most prudent course of action is to issue the RFP for current and future needs. DHS will release the RFP no later than December 2008. This one-year extension is necessary to allow for the release of the required new solicitation documents and the completion of the new contracting process. County Counsel advises that the new contracts must be in place upon the termination of the requested extension period.

Implementation of Strategic Plan Goals

These actions support Goal 7, Health and Mental Health of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

The rates will remain the same during the extension period. The total estimated expenditures for the period of October 1, 2008 through September 30, 2009 are as follows:

Agreement			Net County
No	Contractor	Service Site	_Cost
72049-7	MedQuist	LAC+USC (\$1,080,000) and	
		MLK MACC (\$147,159)	\$1,227,159
70282-13	MedQuist	OVMC (\$633,000) and HDHS (\$90,000)	\$ 723,000
71386-8	MedQuist	MLK MACC	\$ 29,867
74108-7	MedQuist	Harbor	\$ 972,011
72144-6	PSRT	Rancho	\$ 193,753
H-209835-8	PSRT	LAC+USC	\$1,992,000

Funding is included in the DHS Fiscal Year (FY) 2008-09 Adopted Budget and will be requested in FY 2009-2010, as necessary.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Agreement No. 72049 - LAC+USC and MLK MACC (Radiology Reports)

On March 2, 1999, the Board approved an Agreement with Lanier Professional Services, Inc. for the provision of radiology reports transcription services for LAC+USC and Martin Luther King, Jr. Drew Medical Center (now known as MLK MACC), effective February 1, 1999 through December 31, 2003. On September 21, 1999, the County approved a delegation and assignment of rights from Lanier Professional Services, Inc. to MedQuist Transcription, Ltd. Subsequently, the Board approved Amendment Nos. 1 through 6, which increased the allocation, updated contract language, added the Health Insurance Portability and Accountability Act of 1996 (HIPAA) provision, and extended the term through September 30, 2008.

Agreement No. 70282 - OVMC and HDHS (Medical Transcription)

On August 20, 1996, the Board approved an Agreement with MedQuist for the provision of medical transcription services for OVMC and HDHS, effective September 1, 1996 through August 31, 2000. Under delegated authority, the term was extended for an additional six months through February 28, 2001. Subsequently, the Board approved Amendment Nos. 1 through 12, which increased the allocation, updated contract language, added HIPAA, and extended the term through September 30, 2008.

Agreement No. 71386 – MLK MACC (Medical Transcription)

On May 5, 1998, the Board approved an Agreement with MedQuist, for the provision of medical transcription services for MLK MACC effective June 1, 1998 through May 31, 2002. Subsequently, the Board approved Amendment Nos. 1 through 7, which increased the allocation, updated contract language, added HIPAA, and extended the term through September 30, 2008.

Agreement No. 74108 - Harbor (Medical Transcription)

On July 30, 2002, the Board approved an Agreement with MedQuist, for the provision of medical transcription services for Harbor effective August 1, 2002 through July 31, 2007 and delegated authority to the Director of Health Services to execute a month-to-month extension for an additional six months through January 31, 2008. Subsequently, the Board approved an amendment to extend the term through September 30, 2008.

Agreement No. 72144 - Rancho (Medical Transcription)

On June 8, 1999, the Board approved Agreement No. 72144 with Medtext, Inc. for the provision of medical transcription services for Rancho, effective July 1, 1999 through June 30, 2003. On June 25, 2003, the Director of DHS extended the Agreement term by written consent of both parties for six additional months effective through December 31, 2003. Subsequently, the Board approved Amendment Nos. 1 through 5 that increased the maximum obligation and extended the term through September 30, 2008. Under Amendment No. 4, the Board approved a Consent of Ownership and Stock Purchase Transaction on April 18, 2006. As a result of the stock purchase, RapidText changed its name to PeopleSupport RapidText, Inc.

Agreement No. H-209835 - LAC+USC (Overflow Medical Transcription)

On August 4, 1998, the Board approved an Agreement with MedText, Inc. for the provision of overflow medical transcription services at LAC+USC, effective August 1, 1998 through July 31, 2002. The Agreement also authorized the Director to enter into a six-month term extension and this option was utilized to extend the Agreement through January 31, 2003. Subsequently, the Board approved Amendment Nos. 1 through 7 that increased the maximum obligation, allowed for an increase of \$0.01 in the rate per transcribed line, updated contract provision language, added HIPAA, and extended the term through September 30, 2008. On April 18, 2006, under Amendment No. 6, the Board approved a Consent of Ownership and Stock Purchase Transaction that changed the corporate name to PeopleSupport RapidText, Inc.

The Amendments include language to update the: 1) Alteration of Terms provision to allow for change orders; and 2) latest Board-mandated contract language that pertains to Prop A Agreements for the County's Living Wage Program (County Code Chapter 2.201). All of these Prop A contractors are currently in compliance with provision of the Living Wage Program.

These Agreements may be terminated by the County with 30 to 60 days written notice to Contractor depending on the Agreement.

County Counsel has approved the attached Amendments, Exhibits I through VI, as to form.

CONTRACTING PROCESS

The proposed amendments were not listed on the County's Web Site as such postings are not necessary for contract amendments.

The RFP timetable for award of successor contracts is as follows:

Action: Date: Complete draft RFP October 2008 RFP review process November 2008 Release RFP December 2008 Receive Proposals February 2009 Proposal Evaluation Process March/April 2009 Contract Negotiation May 2009 **Contract Preparation** June 2009 **Board Letter with Contract Reviews** July 2009 File Board Letter August 2009 Board Approval August 2009

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Board approval of the recommended Amendments will ensure that vital transcription services remain in place and continue uninterrupted at DHS medical facilities.

CONCLUSION

When approved, the Department requires three signed copies of the Board's action.

Respectfully submitted.

John F. Schunhoff, Ph.D.

Interim Director

JFS:lvb

2008_Med_Transcription_Svcs_BL2kh

Attachments (6)

c: Chief Executive Officer

County Counsel

Executive Officer, Board of Supervisors

RADIOLOGY REPORTS TRANSCRIPTION SERVICES AGREEMENT

AMENDMENT NO. 7

THIS AMENDMENT is made and entered into this ______ day of SEPTEMBER___ 2008,

by and between

COUNTY OF LOS ANGELES (hereafter "County"),

and

MEDQUIST TRANSCRIPTIONS, LTD. (hereafter "Contractor")

WHEREAS, reference is made to that certain document entitled "RADIOLOGY REPORTS TRANSCRIPTION SERVICES AGREEMENT", dated March 2, 1999, and further identified as County Agreement No. 72049 and any Amendments thereto (all hereafter referred to as "Agreement"); and

WHEREAS, said Agreement provides that changes may be made in the form of a written amendment which is formally approved and executed by both parties; and

WHEREAS, it is the intent of the parties hereto to amend the Agreement to extend the term for radiology reports transcription services scheduled to expire on September 30, 2008, for twelve (12) months through September 30, 2009, and make the changes described hereinafter; and

WHEREAS, on February 6, 2007, the County's Board of Supervisors (Board) approved an Ordinance amending Title 2, Chapter 2.201.010 Findings, Chapter

2.201.040 Payment of Living Wage, and Chapter 2.201.080(B)(3) Enforcement and Remedies to the Los Angeles County Code, Living Wage Program, to implement an increase to the Living Wage rate from \$8.32 per hour with \$1.14 per hour in healthcare benefits and \$9.46 per hour without healthcare benefits to \$9.64 per hour with \$2.20 per hour in healthcare benefits and \$11.84 per hour without healthcare benefits; and other miscellaneous, "housekeeping" amendments to the Living Wage Ordinance.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. This Amendment shall become effective October 1, 2008.
- 2. This Amendment extends the term of the Agreement for twelve (12) months effective October 1, 2008 through September 30, 2009 under the same rate and provisions as set forth in the Agreement. All provisions of the Agreement in effect on September 30, 2008, shall remain in effect for the extension period. Contractor shall be compensated according to the same payment provisions and same rate(s) specified for the initial term of the Agreement.
- 3. Agreement Paragraph 60, "COMPLIANCE WITH LIVING WAGE

 PROGRAM", shall be replaced with "COMPLIANCE WITH THE COUNTY'S LIVING

 WAGE PROGRAM", as follows:

"60. <u>COMPLIANCE WITH THE COUNTY'S LIVING WAGE PROGRAM</u>

A. <u>Living Wage Program</u>: This Contract is subject to the provisions of the County's ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto as "Exhibit J" and incorporated by reference into and made a part of this Contract.

B. Payment of Living Wage Rates:

- 1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that the Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of the County Code), the Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County, including, without limitation, "Travel Time" as defined below at subsection 5 of this Subparagraph B, under the Contract:
 - a. Not less than \$11.84 per hour if, in addition to the per-hour wage, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or
 - b. Not less than \$9.64 per hour if, in addition to the per-hour wage, the Contractor contributes at least \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time

during the Contract, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

- 2. For purposes of this sub-paragraph, "Contractor" includes any subcontractor engaged by the Contractor to perform services for the County under the Contract. If the Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract and a copy of the Living Wage Program shall be attached to the subcontract. "Employee" means any individual who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full-time.
- 3. If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option

period.

- 4. If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the County if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program. Unless the Contractor satisfies this requirement within the time frame permitted by the County, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.
- 5. For purposes of the Contractor's obligation to pay its Employees the applicable hourly living wage rate under this

Contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract. Travel Time shall mean any period during which an Employee physically travels to or from a County facility if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time; and 2) With respect to travel by an Employee between County facilities that are subject to two different contracts between the Contractor and the County (of which both contracts are subject to the Living Wage Program), Travel Time shall mean any period during which an Employee physically travels to or from, or between such County facilities if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time.

Contractor's Submittal of Certified Monitoring Reports: The Contractor shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of the

Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on the forms provided by the County (Exhibits K and L), or other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims: During the term of the Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of the Contractor's

operations in California.

- E. County Auditing of Contractor Records: Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at the Contractor's place of business, any of the Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four (4) years from the date of final payment under the Contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.
- F. Notifications to Employees: The Contractor shall place

 County-provided living wage posters at each of the Contractor's places of
 business and locations where the Contractor's Employees are working.

 The Contractor shall also distribute County-provided notices to each of its

 Employees at least once per year. The Contractor shall translate posters
 and handouts into Spanish and any other language spoken by a
 significant number of Employees.
- G. <u>Enforcement and Remedies</u>: If the Contractor fails to comply with the requirements of this sub-paragraph, the County shall have the rights and remedies described in this sub-paragraph in addition to any rights and remedies provided by law or equity.
 - 1. Remedies For Submission of Late or Incomplete

 Certified Monitoring Reports. If the Contractor submits a certified

monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

- a. Withholding of Payment. If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until the Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.
- b. Liquidated Damages. It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated

damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- b. <u>Termination</u>. The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 2. Remedies for Payment of Less Than the Required
 Living Wage. If the Contractor fails to pay any Employee at least
 the applicable hourly living wage rate, such deficiency shall
 constitute a breach of the Contract. In the event of any such
 breach, the County may, in its sole discretion, exercise any or all of
 the following rights/remedies:
 - a. <u>Withholding Payment</u>. If the Contractor fails to

pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until the Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. Liquidated Damages. It is mutually understood and agreed that the Contractor's failure to pay any of its

Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated

damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- c. <u>Termination</u>. The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 3. <u>Debarment:</u> In the event the Contractor breaches a requirement of this sub-paragraph, the County may, in its sole discretion, bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, in accordance with Los Angeles County Code, Chapter 2.202, Determinations of Contractor Non-Responsibility and Contractor Debarment.
- H. <u>Use of Full-Time Employees</u>: The Contractor shall assign and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time Employees based on staffing efficiency or County requirements for the work to be performed under the Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time Employees for services

provided under the Contract unless and until the County has provided written authorization for the use of same. The Contractor submitted with its proposal a full-time Employee staffing plan. If the Contractor changes its full-time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the County.

- I. <u>Contractor Retaliation Prohibited</u>: The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this subparagraph may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- J. <u>Contractor Standards</u>: During the term of the Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, the Contractor shall demonstrate to the satisfaction of the County that the Contractor is complying with this requirement.

K. <u>Employee Retention Rights:</u>

 The Contractor shall offer employment to all retention employees who are qualified for such jobs. A "retention employee" is an individual:

- a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and
- b. Who has been employed by a Contractor under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new Contract, which predecessor contract was terminated by the County prior to its expiration; and
- c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.
- 2. The Contractor is not required to hire a retention employee who:
 - a. Has been convicted of a crime related to the job or his or her performance; or
 - b. Fails to meet any other County requirement for employees of a Contractor.
- 3. The Contractor shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, the Contractor may retain a retention employee on the same terms and conditions as the Contractor's

other employees.

- L. Neutrality in Labor Relations: The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of the Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining Contract, or which would otherwise be permitted under the provisions of the National Labor Relations Act."
- 4. Agreement Paragraph 18, "ALTERATION OF TERMS", shall be replaced with the following:
 - "18. ALTERATION OF TERMS: The body of this Agreement including its ADDITIONAL PROVISIONS, Exhibits, and any Attachment(s) attached hereto, fully expresses all understanding of the parties concerning all matters covered and shall constitute the total Agreement.

County reserves the right to initiate Change Notices that do not affect the term, maximum obligation, statement of work, monthly cost, or payments. All such changes shall be accomplished with an executed Change Notice signed by the Contractor and by the Director, or his designee.

Except for any of above described Change Notices, no addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid

and effective unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties in the same manner as this Agreement."

- 5. Exhibit J, "Title 2 Administration, Chapter 2.201 Living Wage Program", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 6. Exhibit K, "Monthly Certification For Applicable Health Benefit Payments", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 7. Exhibit L, "Payroll Statement of Compliance", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 8. Exhibit M, "Living Wage Declaration", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 9. Exhibit N, "Model Contractor Staffing Plan and Sample Staffing Plan", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 10. Except for the changes set forth hereinabove, Agreement shall not be changed in any other respect by this Amendment.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be subscribed by its

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/
/

Chairman and Contractor has caused this Amendment to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI Executive Officer

ATTEST:

Ву

SACHI A. HAMAI

Executive Officer of the

Deputy

Board of Supervisors

Clerk of the Board of Supervisors

COUNTY OF LOS ANGELES

Chairman, Board of Supervisors

MEDQUIST TRANSCRITIONS, LTD.

Contractor

Signature

Kathleen DoNovan

Print Name

Title (Affix Corporate Seal)

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

EXECUTIVE OFFICER

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SEP 1 6 2008

APPROVED AS TO FORM:
BY THE OFFICE OF THE COUNTY COUNSEL

By Mayable
Deputy

APPROVED AS TO CONTRACT ADMINISTRATION: Department of Health Services

Kathy K. Hanks, C.P.M., Director Contract Administration and Monitoring

72049-7 LACUSC_LVB 08/28/08

Page 1 of 5

2.201.010 Findings.

The board of supervisors finds that the county of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay a living wage to their employees causes them to use such services thereby placing an additional burden on the county of Los Angeles. (Ord. 2007-0011 § 1, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.020 Definitions.

The general definitions contained in Chapter 2.02 shall be applicable to this chapter unless inconsistent with the following definitions:

- A. County" includes the county of Los Angeles, any county officer or body, any county department head, and any county employee authorized to enter into a Proposition A contract or a cafeteria services contract with an employer.
- B. Employee" means any individual who is an employee of an employer under the laws of California, and who is providing full time services to an employer, some or all of which are provided to the county of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a county of Los Angeles owned or leased facility.
- C. Employer" means:
 - 1. An individual or entity who has a contract with the county:
 - a. For services which is required to be more economical or feasible under Section 44.7 of the Charter of the county of Los Angeles, and is not listed as an excluded contract in Section 2.121.250 B of the Los Angeles County Code, referred to in this chapter as a "Proposition A contract." or
 - b. For cafeteria services, referred to in this chapter as a "cafeteria services contract," and
 - c. Who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts: or
 - An individual or entity that enters into a subcontract with an employer, as defined in subsection C1 and who employs employees to provide services under the employer's contract with the county.
- D. "Full time" means a minimum 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the chief administrative officer, but in no event less than 35 hours worked per week.
- E. "Proposition A contract" means a contract governed by Title 2, Section 2.121.250 et seq. of this code, entitled Contracting with Private Business. (Ord. 2007-0011 § 2, 2007: Ord. 99-0048 § 1 (part), 1999.)

Page 2 of 5

2.201.030 Prospective effect.

This chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three months or more after the effective date of this chapter.* It shall not be applicable to Proposition A contracts or cafeteria services contracts or their amendments in effect before this chapter becomes applicable. (Ord. 99-0048 § 1 (part), 1999.)

* Editor's note: Ordinance 99-0048, which enacted Ch. 2.201, is effective on July 22, 1999.

2.201.040 Payment of living wage.

- A. Employers shall pay employees a living wage for their services provided to the county of no less than the hourly rates set under this chapter. The rates shall be \$9.64 per hour with health benefits, or \$11.84 per hour without health benefits.
- B. To qualify for the living wage rate with health benefits, an employer shall pay at least \$2.20 per hour towards the provision of bona fide health care benefits for each employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the county for evaluation during the procurement process to qualify for the lower living wage rate in subsection A of this section. Employers who provide health care benefits to employees through the county department of health services community health plan are deemed to have qualified for the lower living wage rate in subsection A of this section.
- C. The board of supervisors may, from time to time, adjust the amounts specified in subsections A and B of this section, above for future contracts. Any adjustments to the living wage rate specified in subsections A and B that are adopted by the board of supervisors shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments which become effective three months or more after the effective date of the ordinance that adjusts the living wage rate. (Ord. 2007-0011 § 3, 2007; Ord. 99-0048 § 1 (part), 1999.)

2.201.050 Other provisions.

- A. Full Time Employees. An employer shall assign and use full time employees to provide services under a Proposition A contract or a cafeteria services contract, unless the employer can demonstrate to the county the necessity to use non-full time employees based on staffing efficiency or the county requirements of an individual job.
- B. Neutrality in Labor Relations. An employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.
- C. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter. The chief administrative officer in conjunction with the affirmative action compliance officer shall issue written instructions on the implementation and on-going administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.

Page 3 of 5

- D. Compliance Certification. An employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each employee and certify the hours worked, wages paid, and amounts the employer paid for health benefits, and provide other information deemed relevant to the enforcement of this chapter by the county. Such reports shall be made at the times and in the manner set forth in instructions issued by the chief administrative officer in conjunction with the affirmative action compliance officer. The affirmative action compliance officer in conjunction with the chief administrative officer shall report annually to the board of supervisors on contractor compliance with the provisions of this chapter.
- E. Contractor Standards. An employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability, integrity in employee relations, and the financial ability to pay a living wage. (Ord. 99-0048 § 1 (part), 1999.)

2.201.060 Employer retaliation prohibited.

No employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit, or any statutory benefit to any employee, person, or other entity, who has reported a violation of this chapter to the board of supervisors or to one or more of their offices, to the county chief administrative officer, or to the county auditor controller, or to the county department administering the Proposition A contract or cafeteria services contract. (Ord. 99-0048 § 1 (part), 1999.)

2.201.070 Employee retention rights.

In the event that any Proposition A contract or cafeteria service contract is terminated by the county prior to its expiration, any new contract with a subsequent employer for such services shall provide for the employment of the predecessor employer's employees as provided in this section.

- A. A "retention employee" is an employee of a predecessor employer:
 - 1. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act;
 - Who has been employed by an employer under a predecessor Proposition A contract or a predecessor cafeteria services contract for at least six months prior to the date of a new contract; and
 - 3. Who is or will be terminated from his or her employment as a result of the county entering into a new contract.
- B. Subsequent employers shall offer employment to all retention employees who are qualified for such jobs.
- C. A subsequent employer is not required to hire a retention employee who:
 - 1. Has been convicted of a crime related to the job or his or her job performance; or
 - 2. Fails to meet any other county requirement for employees of a contractor.

Page 4 of 5

D. A subsequent employer may not terminate a retention employee for the first 90 days of employment under a new contract, except for cause. Thereafter a subsequent employer may retain a retention employee on the same terms and conditions as the subsequent employer's other employees. (Ord. 99-0048 § 1 (part), 1999.)

2.201.080 Enforcement and remedies.

For violation of any of the provisions of this chapter:

- A. An employee may bring an action in the courts of the state of California for damages caused by an employer's violation of this chapter.
- B. The county department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the chief administrative officer:
 - 1. Assess liquidated damages as provided in the contract; and/or
 - 2. Recommend to the board of supervisors the termination of the contract; and/or
 - 3. Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, in accordance with Section 2.202.040 of this code. (Ord. 2007-0011 § 4, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.090 Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any employer or to any employee in a manner inconsistent with United States or California laws.
- B. Collective Bargaining Agreements. Any provision of this chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. This chapter shall not be applied to any employer which is a nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code.
- D. Small Businesses. This chapter shall not be applied to any employer which is a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:
 - 1. Is not an affiliate or subsidiary of a business dominant in its field of operation; and
 - 2. Has 20 or fewer employees during the contract period, including full time and part time employees; and
 - 3. Does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$1,000,000.00; or
 - 4. If the business is a technical or professional service, does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$2,500,000.00.

Page 5 of 5

"Dominant in its field of operation" means having more than 20 employees, including full time and part time employees, and more than \$1,000,000.00 in annual gross revenues or \$2,500,000.00 in annual gross revenues if a technical or professional service.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 99-0055 § 1, 1999: Ord. 99-0048 § 1 (part), 1999.)

2.201.100 Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 99-0048 § 1 (part), 1999.)

EXHIBIT K

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

MONTHLY CERTHFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS

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EXHIBIT L

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM PAYROLL STATEMENT OF COMPLIANCE

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	hereby That I p	pay or supervise the payment of the persons employed by
		on the; (Company or subcontractor name) ; (Service, Building or Work Site)
	that du	ring the payroll period commencing on the
	ending	the day of all persons employed on said work site (Calendar day of Month) (Month and Year)
	have be	een paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to ehalf of;
		(Company Name
	from th	e full weekly wages earned by any person and that no deductions have been made either directly or in directly e full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 ubtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 357; 40 U.S.C. 276c), and described below:
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2.	comple	by payrolls otherwise under this contract required to be submitted for the above period are correct and ete; that the wage rates for employees contained therein are not less than the applicable County of geles Living Wage rates contained in the contract.
3.	That:	
	A.	WHERE FRINGE (Health) BENEFITS ARE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS
		In addition to the basic hourly wage rates paid to each employee listed in the above referenced payroll, payments of health benefits as required in the contract have been or will be paid to appropriate programs for the benefit of such employees.
	В.	WHERE FRINGE (Health) BENEFITS ARE PAID IN CASH
		Each employee listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the applicable amount of the required County of Los Angeles Living Wage hourly rate as listed in the contract.
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EXHIBIT M



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

LIVING WAGE DECLARATION

The contract to be awarded pursuant to this Request for Proposal (RFP) is subject to the County of Los Angeles Living Wage Ordinance (Program). You must declare your intent to comply with the Program.

If you believe that you are exempt from the Program, please complete the Application for Exemption form

and submit it, as instructed in the RFP, to the County awarding department. If you are not exempt from the Program, please check the option that best describes your intention to comply with the Program. I do not have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract. I will pay an hourly wage rate of not less than \$11.84 per hour per employee. I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract but will pay into the plan less than \$2.20 per hour per employee. will pay an hourly wage of not less than \$11.84 per hour per employee. I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract and will pay into the plan at least \$2.20 per hour per employee. I will pay an hourly wage of not less than \$9.64 per hour per employee. Health Plan(s): Company Insurance Group Number: Health Benefit(s) Payment Schedule: Monthly Quarterly □ Bi-Annual Other: □ Annually PLEASE PRINT COMPANY NAME: I declare under penalty of perjury under the laws of the State of California that the above is true and correct: SIGNATURE: PLEASE PRINT NAME: TITLE OR POSITION:

EXHIBIT N

MODEL CONTRACTOR STAFFING PLAN AND

SAMPLE STAFFING PLAN

EXHIBIT N

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MEDICAL TRANSCRIPTION SERVICES AGREEMENT

AMENDMENT NO. 13

THIS AMENDMENT is made and entered into this _____ day of ______ 2008,

by and between

COUNTY OF LOS ANGELES

(hereafter "County"),

and

MEDQUIST TRANSCRIPTIONS, LTD. (hereafter "Contractor")

WHEREAS, reference is made to that certain document entitled "MEDICAL TRANSCRIPTION SERVICES AGREEMENT", dated August 20, 1996, and further identified as County Agreement No. 70282 and any Amendments thereto (all hereafter referred to as "Agreement"); and

WHEREAS, said Agreement provides that changes may be made in the form of a written amendment which is formally approved and executed by both parties; and

WHEREAS, it is the intent of the parties hereto to amend the Agreement to extend the term for medical transcription services scheduled to expire on September 30, 2008, for twelve (12) months through September 30, 2009, and make the changes described hereinafter; and

WHEREAS, on February 6, 2007, the County's Board of Supervisors (Board) approved an Ordinance amending Title 2, Chapter 2.201.010 Findings, Chapter

2.201.040 Payment of Living Wage, and Chapter 2.201.080(B)(3) Enforcement and Remedies to the Los Angeles County Code, Living Wage Program, to implement an increase to the Living Wage rate from \$8.32 per hour with \$1.14 per hour in healthcare benefits and \$9.46 per hour without healthcare benefits to \$9.64 per hour with \$2.20 per hour in healthcare benefits and \$11.84 per hour without healthcare benefits; and other miscellaneous, "housekeeping" amendments to the Living Wage Ordinance.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. This Amendment shall become effective October 1, 2008.
- 2. This Amendment extends the term of the Agreement for twelve (12) months effective October 1, 2008 through September 30, 2009, under the same rate and provisions as set forth in the Agreement. All provisions of the Agreement in effect on September 30, 2008, shall remain in effect for the extension period. Contractor shall be compensated according to the same payment provisions and same rate(s) specified for the initial term of the Agreement.
- 3. Agreement Paragraph 59, "COMPLIANCE WITH LIVING WAGE

 PROGRAM", shall be replaced with "COMPLIANCE WITH THE COUNTY'S LIVING

 WAGE PROGRAM", as follows:

"59. COMPLIANCE WITH THE COUNTY'S LIVING WAGE PROGRAM

A. <u>Living Wage Program</u>: This Contract is subject to the provisions of the County's ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto as "Exhibit E-1" and incorporated by reference into and made a part of this Contract.

B. <u>Payment of Living Wage Rates:</u>

- 1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that the Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of the County Code), the Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County, including, without limitation, "Travel Time" as defined below at subsection 5 of this Subparagraph B, under the Contract:
 - a. Not less than \$11.84 per hour if, in addition to the per-hour wage, the Contractor contributes less than
 \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or
 - b. Not less than \$9.64 per hour if, in addition to the per-hour wage, the Contractor contributes at least \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time

during the Contract, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

- 2. For purposes of this sub-paragraph, "Contractor" includes any subcontractor engaged by the Contractor to perform services for the County under the Contract. If the Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract and a copy of the Living Wage Program shall be attached to the subcontract. "Employee" means any individual who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full-time.
- 3. If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option

period.

- 4. If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the County if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program. Unless the Contractor satisfies this requirement within the time frame permitted by the County, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.
- 5. For purposes of the Contractor's obligation to pay its Employees the applicable hourly living wage rate under this

Contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract, Travel Time shall mean any period during which an Employee physically travels to or from a County facility if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time; and 2) With respect to travel by an Employee between County facilities that are subject to two different contracts between the Contractor and the County (of which both contracts are subject to the Living Wage Program), Travel Time shall mean any period during which an Employee physically travels to or from, or between such County facilities if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time.

Contractor's Submittal of Certified Monitoring Reports: The Contractor shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of the

Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on the forms provided by the County (Exhibits F and G), or other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims: During the term of the Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of any of the Contractor's

operations in California.

- E. <u>County Auditing of Contractor Records</u>: Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at the Contractor's place of business, any of the Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four (4) years from the date of final payment under the Contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.
- F. Notifications to Employees: The Contractor shall place
 County-provided living wage posters at each of the Contractor's places of
 business and locations where the Contractor's Employees are working.
 The Contractor shall also distribute County-provided notices to each of its
 Employees at least once per year. The Contractor shall translate posters
 and handouts into Spanish and any other language spoken by a
 significant number of Employees.
- G. <u>Enforcement and Remedies</u>: If the Contractor fails to comply with the requirements of this sub-paragraph, the County shall have the rights and remedies described in this sub-paragraph in addition to any rights and remedies provided by law or equity.
 - Remedies For Submission of Late or Incomplete

 Certified Monitoring Reports. If the Contractor submits a certified

monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

- a. Withholding of Payment. If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until the Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.
- b. <u>Liquidated Damages</u>. It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated

damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- b. <u>Termination</u>. The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 2. Remedies for Payment of Less Than the Required

 Living Wage. If the Contractor fails to pay any Employee at least
 the applicable hourly living wage rate, such deficiency shall
 constitute a breach of the Contract. In the event of any such
 breach, the County may, in its sole discretion, exercise any or all of
 the following rights/remedies:
 - a. Withholding Payment. If the Contractor fails to

pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until the Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. <u>Liquidated Damages</u>. It is mutually understood and agreed that the Contractor's failure to pay any of its
Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated

damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- c. <u>Termination</u>. The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 3. <u>Debarment:</u> In the event the Contractor breaches a requirement of this sub-paragraph, the County may, in its sole discretion, bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, in accordance with Los Angeles County Code, Chapter 2.202, Determinations of Contractor Non-Responsibility and Contractor Debarment.
- H. <u>Use of Full-Time Employees</u>: The Contractor shall assign and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time Employees based on staffing efficiency or County requirements for the work to be performed under the Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time Employees for services

provided under the Contract unless and until the County has provided written authorization for the use of same. The Contractor submitted with its proposal a full-time Employee staffing plan. If the Contractor changes its full-time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the County.

- I. Contractor Retaliation Prohibited: The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this subparagraph may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- J. <u>Contractor Standards</u>: During the term of the Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, the Contractor shall demonstrate to the satisfaction of the County that the Contractor is complying with this requirement.

K. <u>Employee Retention Rights</u>:

 The Contractor shall offer employment to all retention employees who are qualified for such jobs. A "retention employee" is an individual:

- a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and
- b. Who has been employed by a Contractor under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new Contract, which predecessor contract was terminated by the County prior to its expiration; and
- c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.
- 2. The Contractor is not required to hire a retention employee who:
 - a. Has been convicted of a crime related to the job or his or her performance; or
 - b. Fails to meet any other County requirement for employees of a Contractor.
- 3. The Contractor shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, the Contractor may retain a retention employee on the same terms and conditions as the Contractor's

other employees.

- L. Neutrality in Labor Relations: The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of the Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining Contract, or which would otherwise be permitted under the provisions of the National Labor Relations Act."
- 4. Agreement Paragraph 15, "ALTERATION OF TERMS", shall be replaced with the following:
 - "15. ALTERATION OF TERMS: The body of this Agreement including its ADDITIONAL PROVISIONS, Exhibits, and any Attachment(s) attached hereto, fully expresses all understanding of the parties concerning all matters covered and shall constitute the total Agreement.

County reserves the right to initiate Change Notices that do not affect the term, maximum obligation, statement of work, monthly cost, or payments. All such changes shall be accomplished with an executed Change Notice signed by the Contractor and by the Director, or his designee.

Except for any of above described Change Notices, no addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid and effective unless made in the form of a written amendment to this Agreement

which is formally approved and executed by the parties in the same manner as this Agreement."

- 5. Exhibit E-1, "Title 2 Administration, Chapter 2.201 Living Wage Program", attached hereto and incorporated by reference, is hereby added to this Agreement and replaces all references made to Exhibit E.
- 6. Exhibit F, "Monthly Certification For Applicable Health Benefit Payments", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 7. Exhibit G, "Payroll Statement of Compliance", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 8. Exhibit H, "Living Wage Declaration", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 9. Exhibit I, "Model Contractor Staffing Plan and Sample Staffing Plan", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 10. Except for the changes set forth hereinabove, Agreement shall not be changed in any other respect by this Amendment.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be subscribed by its

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Chairman and Contractor has caused this Amendment to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI Executive Officer

Clerk of the Board of Supervisors

By Deputy

ATTEST:

SACHI A. HAMAI

Executive Officer of the Board of Supervisors

Deputy

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APPROVED AS TO FORM:
BY THE OFFICE OF THE COUNTY COUNSEL

ALIFORT

Deputy

APPROVED AS TO CONTRACT ADMINISTRATION:
Department of Health Services

Kathy K. Hanks, C.P.M., Director Contract Administration and Monitoring

70282-13 OVMC_LVB 08/28/08 COUNTY OF LOS ANGELES

Chairman, Board of Supervisors

MEDQUIST TRANSCRITIONS, LTD.

Contractor

Signature

Kathleen Donova

Print Name

Title (Affix Corporate Seal)

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGÉ: ES

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SEP 1 6 2008

SACHI A. HAMAI EXECUTIVE OFFICER

Page 1 of 5

2.201.010 Findings.

The board of supervisors finds that the county of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay a living wage to their employees causes them to use such services thereby placing an additional burden on the county of Los Angeles. (Ord. 2007-0011 § 1, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.020 Definitions.

The general definitions contained in Chapter 2.02 shall be applicable to this chapter unless inconsistent with the following definitions:

- A. County" includes the county of Los Angeles, any county officer or body, any county department head, and any county employee authorized to enter into a Proposition A contract or a cafeteria services contract with an employer.
- B. Employee" means any individual who is an employee of an employer under the laws of California, and who is providing full time services to an employer, some or all of which are provided to the county of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a county of Los Angeles owned or leased facility.
- C. Employer" means:
 - 1. An individual or entity who has a contract with the county.
 - a. For services which is required to be more economical or feasible under Section 44.7 of the Charter of the county of Los Angeles, and is not listed as an excluded contract in Section 2.121.250 B of the Los Angeles County Code, referred to in this chapter as a "Proposition A contract," or
 - b. For cafeteria services, referred to in this chapter as a "cafeteria services contract," and
 - c. Who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts; or
 - 2. An individual or entity that enters into a subcontract with an employer, as defined in subsection C1 and who employs employees to provide services under the employer's contract with the county.
- D. "Full time" means a minimum 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the chief administrative officer, but in no event less than 35 hours worked per week.
- E. "Proposition A contract" means a contract governed by Title 2, Section 2.121.250 et seq. of this code, entitled Contracting with Private Business. (Ord. 2007-0011 § 2, 2007: Ord. 99-0048 § 1 (part), 1999.)

Page 2 of 5

2.201.030 Prospective effect.

This chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three months or more after the effective date of this chapter.* It shall not be applicable to Proposition A contracts or cafeteria services contracts or their amendments in effect before this chapter becomes applicable. (Ord. 99-0048 § 1 (part), 1999.)

* Editor's note: Ordinance 99-0048, which enacted Ch. 2.201, is effective on July 22, 1999.

2.201.040 Payment of living wage.

- A. Employers shall pay employees a living wage for their services provided to the county of no less than the hourly rates set under this chapter. The rates shall be \$9.64 per hour with health benefits, or \$11.84 per hour without health benefits.
- B. To qualify for the living wage rate with health benefits, an employer shall pay at least \$2.20 per hour towards the provision of bona fide health care benefits for each employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the county for evaluation during the procurement process to qualify for the lower living wage rate in subsection A of this section. Employers who provide health care benefits to employees through the county department of health services community health plan are deemed to have qualified for the lower living wage rate in subsection A of this section.
- C. The board of supervisors may, from time to time, adjust the amounts specified in subsections A and B of this section, above for future contracts. Any adjustments to the living wage rate specified in subsections A and B that are adopted by the board of supervisors shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments which become effective three months or more after the effective date of the ordinance that adjusts the living wage rate. (Ord. 2007-0011 § 3, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.050 Other provisions.

- A. Full Time Employees. An employer shall assign and use full time employees to provide services under a Proposition A contract or a cafeteria services contract, unless the employer can demonstrate to the county the necessity to use non-full time employees based on staffing efficiency or the county requirements of an individual job.
- B. Neutrality in Labor Relations. An employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.
- C. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter. The chief administrative officer in conjunction with the affirmative action compliance officer shall issue written instructions on the implementation and on-going administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.

Page 3 of 5

- D. Compliance Certification. An employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each employee and certify the hours worked, wages paid, and amounts the employer paid for health benefits, and provide other information deemed relevant to the enforcement of this chapter by the county. Such reports shall be made at the times and in the manner set forth in instructions issued by the chief administrative officer in conjunction with the affirmative action compliance officer. The affirmative action compliance officer in conjunction with the chief administrative officer shall report annually to the board of supervisors on contractor compliance with the provisions of this chapter.
- E. Contractor Standards. An employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability, integrity in employee relations, and the financial ability to pay a living wage. (Ord. 99-0048 § 1 (part), 1999.)

2.201.060 Employer retaliation prohibited.

No employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit, or any statutory benefit to any employee, person, or other entity, who has reported a violation of this chapter to the board of supervisors or to one or more of their offices, to the county chief administrative officer, or to the county auditor controller, or to the county department administering the Proposition A contract or cafeteria services contract. (Ord. 99-0048 § 1 (part), 1999.)

2.201.070 Employee retention rights.

In the event that any Proposition A contract or cafeteria service contract is terminated by the county prior to its expiration, any new contract with a subsequent employer for such services shall provide for the employment of the predecessor employer's employees as provided in this section.

- A. A "retention employee" is an employee of a predecessor employer:
 - 1. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act;
 - Who has been employed by an employer under a predecessor Proposition A contract or a predecessor cafeteria services contract for at least six months prior to the date of a new contract; and
 - 3. Who is or will be terminated from his or her employment as a result of the county entering into a new contract.
- B. Subsequent employers shall offer employment to all retention employees who are qualified for such jobs.
- C. A subsequent employer is not required to hire a retention employee who:
 - 1. Has been convicted of a crime related to the job or his or her job performance; or
 - 2. Fails to meet any other county requirement for employees of a contractor.

Page 4 of 5

D. A subsequent employer may not terminate a retention employee for the first 90 days of employment under a new contract, except for cause. Thereafter a subsequent employer may retain a retention employee on the same terms and conditions as the subsequent employer's other employees. (Ord. 99-0048 § 1 (part), 1999.)

2.201.080 Enforcement and remedies.

For violation of any of the provisions of this chapter.

- A. An employee may bring an action in the courts of the state of California for damages caused by an employer's violation of this chapter.
- B. The county department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the chief administrative officer:
 - 1. Assess liquidated damages as provided in the contract; and/or
 - 2. Recommend to the board of supervisors the termination of the contract; and/or
 - 3. Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, in accordance with Section 2.202.040 of this code. (Ord. 2007-0011 § 4, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.090 Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any employer or to any employee in a manner inconsistent with United States or California laws.
- B. Collective Bargaining Agreements. Any provision of this chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. This chapter shall not be applied to any employer which is a nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code.
- D. Small Businesses. This chapter shall not be applied to any employer which is a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:
 - 1. Is not an affiliate or subsidiary of a business dominant in its field of operation; and
 - 2. Has 20 or fewer employees during the contract period, including full time and part time employees; and
 - 3. Does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$1,000,000.00; or
 - 4. If the business is a technical or professional service, does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$2,500,000.00.

EXHIBIT E-1

Title 2 ADMINISTRATION Chapter 2.201 LIVING WAGE PROGRAM

Page 5 of 5

"Dominant in its field of operation" means having more than 20 employees, including full time and part time employees, and more than \$1,000,000.00 in annual gross revenues or \$2,500,000.00 in annual gross revenues if a technical or professional service.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 99-0055 § 1, 1999: Ord. 99-0048 § 1 (part), 1999.)

2.201.100 Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 99-0048 § 1 (part), 1999.)

EXHIBIT F

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS before

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EXHIBIT G

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM PAYROLL STATEMENT OF COMPLIANCE

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Do	hereby	(Name of Owner or Company Represent	ative)	(Title)
		pay or supervise the payment of the	ne person on th	ns employed by
	that du	ring the navroll period commencing	on the	(Service, Building or Work Site) day of, and (Calendar day of Month) (Month and Year)
	ending	the day of		(Calendar day of Month) (Month and Year) all persons employed on said work site
	have be or on b	een paid the full weekly wages earn ehalf of	ed, that n	no rebates have been or will be made either directly or indirectly to;
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	from th	e full wages earned by any person	, other tha of Labor u	nd that no deductions have been made either directly or in directly an permissible deductions as defined in Regulations, Part 3 (29 under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, w:
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2.	comple		loyees co	required to be submitted for the above period are correct and contained therein are not less than the applicable County of contract.
3.	That:			
	A.	WHERE FRINGE (Health) BENI	EFITS AF	RE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS
	0			s paid to each employee listed in the above referenced payroll, the contract have been or will be paid to appropriate programs for
	B.	WHERE FRINGE (Health) BENI	EFITS AF	RE PAID IN CASH
				ced payroll has been paid, as indicated on the payroll, an amount required County of Los Angeles Living Wage hourly rate as listed
		ewed the information in this report alty of perjury certifying that all info		company owner or authorized agent for this company, I sign herein is complete and correct.
	t Name and			ner or Company Representative Signature:
TH	IE WILL	FUL FALSIFICATION OF ANY O	F THE A	ABOVE STATEMENTS MAY SUBJECT THE
				OR CRIMINAL PROSECUTION. IN ADDITION, THE SUSPENDED AND PRECLUDED FROM BIDDING ON OR

PARTICIPATING IN ANY COUNTY CONTRACT OR PROJECT FOR A PERIOD OF THREE (3) YEARS.

EXHIBIT H



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

LIVING WAGE DECLARATION

The contract to be awarded pursuant to this Request for Proposal (RFP) is subject to the County of Los Angeles Living Wage Ordinance (Program). You must declare your intent to comply with the Program.

If you believe that you are exempt from the Program, please complete the Application for Exemption form and submit it, as instructed in the RFP, to the County awarding department. If you are not exempt from the Program, please check the option that best describes your intention to comply with the Program. I do not have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract. I will pay an hourly wage rate of not less than \$11.84 per hour per employee. I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract but will pay into the plan less than \$2.20 per hour per employee. I will pay an hourly wage of not less than \$11.84 per hour per employee. I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract and will pay into the plan at least \$2.20 per hour per employee. I will pay an hourly wage of not less than \$9.64 per hour per employee. Health Plan(s): Company Insurance Group Number: Health Benefit(s) Payment Schedule: Monthly Quarterly □ Bi-Annual Other: _____(Specify) □ Annually

PLEASE PRINT COMPANY NAME:	
I declare under penalty of perjury under the laws of the State of Ca	lifornia that the above is true and correct:
SIGNATURE:	DATE:
PLEASE PRINT NAME:	TITLE OR POSITION:

EXHIBIT I

MODEL CONTRACTOR STAFFING PLAN AND SAMPLE STAFFING PLAN

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MEDICAL TRANSCRIPTION SERVICES AGREEMENT

AMENDMENT NO. 8

THIS AMENDMENT is made and entered into this _____ day of _____ SEPTEMBER 2008,

by and between

COUNTY OF LOS ANGELES

(hereafter "County"),

and

MEDQUIST TRANSCRIPTIONS, LTD. (hereafter "Contractor")

WHEREAS, reference is made to that certain document entitled "MEDICAL TRANSCRIPTION SERVICES AGREEMENT", dated May 5, 1998, and further identified as County Agreement No. 71386 and any Amendments thereto (all hereafter referred to as "Agreement"); and

WHEREAS, said Agreement provides that changes may be made in the form of a written amendment which is formally approved and executed by both parties; and

WHEREAS, it is the intent of the parties hereto to amend the Agreement to extend the term for medical transcription services scheduled to expire on September 30, 2008, for twelve (12) months through September 30, 2009, and make the changes described hereinafter; and

WHEREAS, on February 6, 2007, the County's Board of Supervisors (Board) approved an Ordinance amending Title 2, Chapter 2.201.010 Findings, Chapter

2.201.040 Payment of Living Wage, and Chapter 2.201.080(B)(3) Enforcement and Remedies to the Los Angeles County Code, Living Wage Program, to implement an increase to the Living Wage rate from \$8.32 per hour with \$1.14 per hour in healthcare benefits and \$9.46 per hour without healthcare benefits to \$9.64 per hour with \$2.20 per hour in healthcare benefits and \$11.84 per hour without healthcare benefits; and other miscellaneous, "housekeeping" amendments to the Living Wage Ordinance.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. This Amendment shall become effective October 1, 2008.
- 2. This Amendment extends the term of the Agreement for twelve (12) months effective October 1, 2008 through September 30, 2009, under the same rate and provisions as set forth in the Agreement. All provisions of the Agreement in effect on September 30, 2008, shall remain in effect for the extension period. Contractor shall be compensated according to the same payment provisions and same rate(s) specified for the initial term of the Agreement.
- 3. Agreement Paragraph 58, "COMPLIANCE WITH LIVING WAGE

 PROGRAM", shall be replaced with "COMPLIANCE WITH THE COUNTY'S LIVING

 WAGE PROGRAM", as follows:

"58. <u>COMPLIANCE WITH THE COUNTY'S LIVING WAGE PROGRAM</u>

A. <u>Living Wage Program</u>: This Contract is subject to the provisions of the County's ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto as "Attachment E" and incorporated by reference into and made a part of this Contract.

B. Payment of Living Wage Rates:

1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that the Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of the County Code), the Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County, including, without limitation, "Travel Time" as defined below at subsection 5 of this Subparagraph B, under the Contract:

- a. Not less than \$11.84 per hour if, in addition to the per-hour wage, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or
- b. Not less than \$9.64 per hour if, in addition to the per-hour wage, the Contractor contributes at least \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time

during the Contract, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

- 2. For purposes of this sub-paragraph, "Contractor" includes any subcontractor engaged by the Contractor to perform services for the County under the Contract. If the Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract and a copy of the Living Wage Program shall be attached to the subcontract. "Employee" means any individual who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full-time.
- 3. If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option

period.

- 4. If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the County if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion, that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program. Unless the Contractor satisfies this requirement within the time frame permitted by the County, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.
- 5. For purposes of the Contractor's obligation to pay its Employees the applicable hourly living wage rate under this

Contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract, Travel Time shall mean any period during which an Employee physically travels to or from a County facility if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time; and 2) With respect to travel by an Employee between County facilities that are subject to two different contracts between the Contractor and the County (of which both contracts are subject to the Living Wage Program), Travel Time shall mean any period during which an Employee physically travels to or from, or between such County facilities if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time.

Contractor's Submittal of Certified Monitoring Reports: The Contractor shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of the

Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on the forms provided by the County (Exhibits F and G), or other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims: During the term of the Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of the Contractor's

operations in California.

- E. County Auditing of Contractor Records: Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at the Contractor's place of business, any of the Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four (4) years from the date of final payment under the Contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.
- F. Notifications to Employees: The Contractor shall place
 County-provided living wage posters at each of the Contractor's places of
 business and locations where the Contractor's Employees are working.
 The Contractor shall also distribute County-provided notices to each of its
 Employees at least once per year. The Contractor shall translate posters
 and handouts into Spanish and any other language spoken by a
 significant number of Employees.
- G. <u>Enforcement and Remedies</u>: If the Contractor fails to comply with the requirements of this sub-paragraph, the County shall have the rights and remedies described in this sub-paragraph in addition to any rights and remedies provided by law or equity.
 - Remedies For Submission of Late or Incomplete

 Certified Monitoring Reports. If the Contractor submits a certified

monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

- a. Withholding of Payment. If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until the Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.
- b. <u>Liquidated Damages</u>. It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated

damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- b. <u>Termination</u>. The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 2. Remedies for Payment of Less Than the Required
 Living Wage. If the Contractor fails to pay any Employee at least
 the applicable hourly living wage rate, such deficiency shall
 constitute a breach of the Contract. In the event of any such
 breach, the County may, in its sole discretion, exercise any or all of
 the following rights/remedies:
 - a. Withholding Payment. If the Contractor fails to

pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until the Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. <u>Liquidated Damages</u>. It is mutually understood and agreed that the Contractor's failure to pay any of its
Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated

damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- C. <u>Termination</u>. The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 3. <u>Debarment:</u> In the event the Contractor breaches a requirement of this sub-paragraph, the County may, in its sole discretion, bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, in accordance with Los Angeles County Code, Chapter 2.202, Determinations of Contractor Non-Responsibility and Contractor Debarment.
- H. <u>Use of Full-Time Employees</u>: The Contractor shall assign and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time Employees based on staffing efficiency or County requirements for the work to be performed under the Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time Employees for services

provided under the Contract unless and until the County has provided written authorization for the use of same. The Contractor submitted with its proposal a full-time Employee staffing plan. If the Contractor changes its full-time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the County.

- I. Contractor Retaliation Prohibited: The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this subparagraph may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- J. <u>Contractor Standards</u>: During the term of the Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, the Contractor shall demonstrate to the satisfaction of the County that the Contractor is complying with this requirement.

K. <u>Employee Retention Rights</u>:

 The Contractor shall offer employment to all retention employees who are qualified for such jobs. A "retention employee" is an individual:

- a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and
- b. Who has been employed by a Contractor under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new Contract, which predecessor contract was terminated by the County prior to its expiration; and
- c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.
- 2. The Contractor is not required to hire a retention employee who:
 - a. Has been convicted of a crime related to the job or his or her performance; or
 - b. Fails to meet any other County requirement for employees of a Contractor.
- 3. The Contractor shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, the Contractor may retain a retention employee on the same terms and conditions as the Contractor's

other employees.

- L. Neutrality in Labor Relations: The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of the Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining Contract, or which would otherwise be permitted under the provisions of the National Labor Relations Act."
- 4. Agreement Paragraph 17, "<u>ALTERATION OF TERMS</u>", shall be replaced with the following:
 - "17. ALTERATION OF TERMS: The body of this Agreement including its ADDITIONAL PROVISIONS, Exhibits, and any Attachment(s) attached hereto, fully expresses all understanding of the parties concerning all matters covered and shall constitute the total Agreement.

County reserves the right to initiate Change Notices that do not affect the term, maximum obligation, statement of work, monthly cost, or payments. All such changes shall be accomplished with an executed Change Notice signed by the Contractor and by the Director, or his designee.

Except for any of above described Change Notices, no addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid and effective unless made in the form of a written amendment to this Agreement

which is formally approved and executed by the parties in the same manner as this Agreement."

- 5. Exhibit E, "Title 2 Administration, Chapter 2.201 Living Wage Program", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 6. Exhibit F, "Monthly Certification For Applicable Health Benefit Payments", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 7. Exhibit G, "Payroll Statement of Compliance", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 8. Exhibit H, "Living Wage Declaration", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 9. Exhibit I, "Model Contractor Staffing Plan and Sample Staffing Plan", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 10. Except for the changes set forth hereinabove, Agreement shall not be changed in any other respect by this Amendment.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los

Angeles has caused this Amendment to be subscribed by its

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Chairman and Contractor has caused this Amendment to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

I hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI Executive Officer

Clerk of the Board of Supervisors

COUNTY OF LOS ANGELES

Chairman, Board of Supervisors

MEDQUIST TRANSCRITIONS, LTD.

Contractor

Ву

Signature

Print Name

ATTEST:

SACHI A. HAMAI

Executive Officer of the Board of Supervisors

Title

(Affix Corporate Seal)

By James Anana Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

, 28

SEP 1 6 2008

APPROVED AS TO FORM:
BY THE OFFICE OF THE COUNTY COUNSEL

ALIFORN

By / Deputy

Deputy

APPROVED AS TO CONTRACT ADMINISTRATION:
Department of Health Services

Kathy K. Hanks, C.P.M., Director Contract Administration and Monitoring

71386-8 MLK_LVB 08/28/08

Page 1 of 5

2.201.010 Findings.

The board of supervisors finds that the county of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay a living wage to their employees causes them to use such services thereby placing an additional burden on the county of Los Angeles. (Ord. 2007-0011 § 1, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.020 Definitions.

The general definitions contained in Chapter 2.02 shall be applicable to this chapter unless inconsistent with the following definitions:

- A. County" includes the county of Los Angeles, any county officer or body, any county department head, and any county employee authorized to enter into a Proposition A contract or a cafeteria services contract with an employer.
- B. Employee" means any individual who is an employee of an employer under the laws of California, and who is providing full time services to an employer, some or all of which are provided to the county of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a county of Los Angeles owned or leased facility.
- C. Employer" means:
 - 1. An individual or entity who has a contract with the county:
 - a. For services which is required to be more economical or feasible under Section 44.7 of the Charter of the county of Los Angeles, and is not listed as an excluded contract in Section 2.121.250 B of the Los Angeles County Code, referred to in this chapter as a "Proposition A contract." or
 - b. For cafeteria services, referred to in this chapter as a "cafeteria services contract." and
 - Who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts; or
 - 2. An individual or entity that enters into a subcontract with an employer, as defined in subsection C1 and who employs employees to provide services under the employer's contract with the county.
- D. "Full time" means a minimum 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the chief administrative officer, but in no event less than 35 hours worked per week.
- E. "Proposition A contract" means a contract governed by Title 2, Section 2.121.250 et seq. of this code, entitled Contracting with Private Business. (Ord. 2007-0011 § 2, 2007: Ord. 99-0048 § 1 (part), 1999.)

Page 2 of 5

2.201.030 Prospective effect.

This chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three months or more after the effective date of this chapter.* It shall not be applicable to Proposition A contracts or cafeteria services contracts or their amendments in effect before this chapter becomes applicable. (Ord. 99-0048 § 1 (part), 1999.)

* Editor's note: Ordinance 99-0048, which enacted Ch. 2.201, is effective on July 22, 1999.

2.201.040 Payment of living wage.

- A. Employers shall pay employees a living wage for their services provided to the county of no less than the hourly rates set under this chapter. The rates shall be \$9.64 per hour with health benefits, or \$11.84 per hour without health benefits.
- B. To qualify for the living wage rate with health benefits, an employer shall pay at least \$2.20 per hour towards the provision of bona fide health care benefits for each employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the county for evaluation during the procurement process to qualify for the lower living wage rate in subsection A of this section. Employers who provide health care benefits to employees through the county department of health services community health plan are deemed to have qualified for the lower living wage rate in subsection A of this section.
- C. The board of supervisors may, from time to time, adjust the amounts specified in subsections A and B of this section, above for future contracts. Any adjustments to the living wage rate specified in subsections A and B that are adopted by the board of supervisors shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments which become effective three months or more after the effective date of the ordinance that adjusts the living wage rate. (Ord. 2007-0011 § 3, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.050 Other provisions.

- A. Full Time Employees. An employer shall assign and use full time employees to provide services under a Proposition A contract or a cafeteria services contract, unless the employer can demonstrate to the county the necessity to use non-full time employees based on staffing efficiency or the county requirements of an individual job.
- B. Neutrality in Labor Relations. An employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.
- C. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter. The chief administrative officer in conjunction with the affirmative action compliance officer shall issue written instructions on the implementation and on-going administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.

Page 3 of 5

- D. Compliance Certification. An employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each employee and certify the hours worked, wages paid, and amounts the employer paid for health benefits, and provide other information deemed relevant to the enforcement of this chapter by the county. Such reports shall be made at the times and in the manner set forth in instructions issued by the chief administrative officer in conjunction with the affirmative action compliance officer. The affirmative action compliance officer in conjunction with the chief administrative officer shall report annually to the board of supervisors on contractor compliance with the provisions of this chapter.
- E. Contractor Standards. An employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability, integrity in employee relations, and the financial ability to pay a living wage. (Ord. 99-0048 § 1 (part), 1999.)

2.201.060 Employer retaliation prohibited.

No employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit, or any statutory benefit to any employee, person, or other entity, who has reported a violation of this chapter to the board of supervisors or to one or more of their offices, to the county chief administrative officer, or to the county auditor controller, or to the county department administering the Proposition A contract or cafeteria services contract. (Ord. 99-0048 § 1 (part), 1999.)

2.201.070 Employee retention rights.

In the event that any Proposition A contract or cafeteria service contract is terminated by the county prior to its expiration, any new contract with a subsequent employer for such services shall provide for the employment of the predecessor employer's employees as provided in this section.

- A. A "retention employee" is an employee of a predecessor employer:
 - 1. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act;
 - 2. Who has been employed by an employer under a predecessor Proposition A contract or a predecessor cafeteria services contract for at least six months prior to the date of a new contract; and
 - 3. Who is or will be terminated from his or her employment as a result of the county entering into a new contract.
- B. Subsequent employers shall offer employment to all retention employees who are qualified for such jobs.
- C. A subsequent employer is not required to hire a retention employee who:
 - 1. Has been convicted of a crime related to the job or his or her job performance; or
 - 2. Fails to meet any other county requirement for employees of a contractor.

Page 4 of 5

D. A subsequent employer may not terminate a retention employee for the first 90 days of employment under a new contract, except for cause. Thereafter a subsequent employer may retain a retention employee on the same terms and conditions as the subsequent employer's other employees. (Ord. 99-0048 § 1 (part), 1999.)

2.201.080 Enforcement and remedies.

For violation of any of the provisions of this chapter:

- A. An employee may bring an action in the courts of the state of California for damages caused by an employer's violation of this chapter.
- B. The county department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the chief administrative officer:
 - 1. Assess liquidated damages as provided in the contract; and/or
 - 2. Recommend to the board of supervisors the termination of the contract; and/or
 - 3. Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, in accordance with Section 2.202.040 of this code. (Ord. 2007-0011 § 4, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.090 Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any employer or to any employee in a manner inconsistent with United States or California laws.
- B. Collective Bargaining Agreements. Any provision of this chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. This chapter shall not be applied to any employer which is a nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code.
- D. Small Businesses. This chapter shall not be applied to any employer which is a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:
 - 1. Is not an affiliate or subsidiary of a business dominant in its field of operation; and
 - 2. Has 20 or fewer employees during the contract period, including full time and part time employees; and
 - 3. Does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$1,000,000.00; or
 - 4. If the business is a technical or professional service, does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$2,500,000.00.

EXHIBIT E

Title 2 ADMINISTRATION Chapter 2.201 LIVING WAGE PROGRAM

Page 5 of 5

"Dominant in its field of operation" means having more than 20 employees, including full time and part time employees, and more than \$1,000,000.00 in annual gross revenues or \$2,500,000.00 in annual gross revenues if a technical or professional service.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 99-0055 § 1, 1999: Ord. 99-0048 § 1 (part), 1999.)

2.201.100 Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 99-0048 § 1 (part), 1999.)

EXHIBIT F

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS

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EXHIBIT G

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM PAYROLL STATEMENT OF COMPLIANCE

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Do	hereby	(Name of Owner or Company Representative	9)	(Title)	
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PARTICIPATING IN ANY COUNTY CONTRACT OR PROJECT FOR A PERIOD OF THREE (3) YEARS.

EXHIBIT H



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

LIVING WAGE DECLARATION

The contract to be awarded pursuant to this Request for Proposal (RFP) is subject to the County of Los Angeles Living Wage Ordinance (Program). You must declare your intent to comply with the Program.

If you believe that you are exempt from the Program, please complete the Application for Exemption form and submit it, as instructed in the RFP, to the County awarding department.

If you are not exempt from the Program, please check the option that best describes your intention to comply with the Program. I do not have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract. I will pay an hourly wage rate of not less than \$11.84 per hour per employee. I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract but will pay into the plan less than \$2.20 per hour per employee. I will pay an hourly wage of not less than \$11.84 per hour per employee. I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract and will pay into the plan at least \$2.20 per hour per employee. I will pay an hourly wage of not less than \$9.64 per hour per employee. Health Plan(s): Company Insurance Group Number: Health Benefit(s) Payment Schedule: □ Bi-Annual ☐ Monthly □ Quarterly □ Annually □ Other: _____(Specify)

PLEASE PRINT COMPANY NAME:	
I declare under penalty of perjury under the laws of the State of Ca	lifornia that the above is true and correct:
SIGNATURE:	DATE:
PLEASE PRINT NAME:	TITLE OR POSITION:

EXHIBIT I

MODEL CONTRACTOR STAFFING PLAN AND SAMPLE STAFFING PLAN

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MEDICAL TRANSCRIPTION SERVICES AGREEMENT

AMENDMENT NO. 6

THIS AMENDMENT is made and entered into this _____ day of SEPTEMBER__ 2008,

by and between

COUNTY OF LOS ANGELES

(hereafter "County"),

and

PEOPLESUPPORT RAPIDTEXT, INC. (hereafter "Contractor")

WHEREAS, on June 8, 1999, County and MedText, Inc. ("MedText"), dba
RapidText, Inc. ("RapidText") entered into a "MEDICAL TRANSCRIPTION SERVICES
AGREEMENT" for the provision of medical transcription services, further identified as
County Agreement No. 72144 and any Amendments thereto (all hereafter referred to as "Agreement"); and

WHEREAS, on April 18, 2006, the County of Los Angeles Board of Supervisors approved a "CONSENT TO CHANGE OF OWNERSHIP AND STOCK PURCHASE TRANSACTION" and thereafter the new corporate name became "PeopleSupport RapidText, Inc."; and

WHEREAS, said Agreement provides that changes may be made in the form of a written amendment which is formally approved and executed by both parties; and

WHEREAS, it is the intent of the parties hereto to amend the Agreement to extend the term for medical transcription services scheduled to expire on September 30, 2008, for twelve (12) months through September 30, 2009, and make the changes described hereinafter.

WHEREAS, on February 6, 2007, the County's Board of Supervisors (Board) approved an Ordinance amending Title 2, Chapter 2.201.010 Findings, Chapter 2.201.040 Payment of Living Wage, and Chapter 2.201.080(B)(3) Enforcement and Remedies to the Los Angeles County Code, Living Wage Program, to implement an increase to the Living Wage rate from \$8.32 per hour with \$1.14 per hour in healthcare benefits and \$9.46 per hour without healthcare benefits to \$9.64 per hour with \$2.20 per hour in healthcare benefits and \$11.84 per hour without healthcare benefits; and other miscellaneous, "housekeeping" amendments to the Living Wage Ordinance.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. This Amendment shall become effective October 1, 2008.
- 2. This Amendment extends the term of the Agreement for twelve (12) months effective October 1, 2008 through September 30, 2009, under the same rate and provisions as set forth in the Agreement. All provisions of the Agreement in effect on September 30, 2008, shall remain in effect for the extension period. Contractor shall be compensated according to the same payment provisions and same rate(s) specified for the initial term of the Agreement.
- 3. Agreement Paragraph 59, "COMPLIANCE WITH LIVING WAGE

 PROGRAM", shall be replaced with "COMPLIANCE WITH THE COUNTY'S LIVING

 WAGE PROGRAM", as follows:

"59. COMPLIANCE WITH THE COUNTY'S LIVING WAGE PROGRAM

A. <u>Living Wage Program</u>: This Contract is subject to the provisions of the County's ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto as "Exhibit J-1" and incorporated by reference into and made a part of this Contract.

B. Payment of Living Wage Rates:

- 1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that the Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of the County Code), the Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County, including, without limitation, "Travel Time" as defined below at subsection 5 of this Subparagraph B, under the Contract:
 - a. Not less than \$11.84 per hour if, in addition to the per-hour wage, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or
 - b. Not less than \$9.64 per hour if, in addition to the per-hour wage, the Contractor contributes at least \$2.20

per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the Contract, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

2. For purposes of this sub-paragraph, "Contractor" includes any subcontractor engaged by the Contractor to perform services for the County under the Contract. If the Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract and a copy of the Living Wage Program shall be attached to the subcontract. "Employee" means any individual who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a

recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full-time.

- 3. If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option period.
- 4. If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the County if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion. that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program.

Unless the Contractor satisfies this requirement within the time frame permitted by the County, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.

- 5. For purposes of the Contractor's obligation to pay its Employees the applicable hourly living wage rate under this Contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract. Travel Time shall mean any period during which an Employee physically travels to or from a County facility if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time; and 2) With respect to travel by an Employee between County facilities that are subject to two different contracts between the Contractor and the County (of which both contracts are subject to the Living Wage Program), Travel Time shall mean any period during which an Employee physically travels to or from, or between such County facilities if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time.
- C. <u>Contractor's Submittal of Certified Monitoring Reports</u>: The Contractor shall submit to the County certified monitoring reports at a

frequency instructed by the County. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of the Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on the forms provided by the County (Exhibits K and L), or other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

D. Contractor's Ongoing Obligation to Report Labor Law/Payroll

Violations and Claims: During the term of the Contract, if the Contractor

becomes aware of any labor law/payroll violation or any complaint,

investigation or proceeding ("claim") concerning any alleged labor

law/payroll violation (including but not limited to any violation or claim

pertaining to wages, hours and working conditions such as minimum

wage, prevailing wage, living wage, the Fair Labor Standards Act,

employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of any of the Contractor's operations in California.

- E. <u>County Auditing of Contractor Records</u>: Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at the Contractor's place of business, any of the Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four (4) years from the date of final payment under the Contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.
- F. Notifications to Employees: The Contractor shall place
 County-provided living wage posters at each of the Contractor's places of
 business and locations where the Contractor's Employees are working.
 The Contractor shall also distribute County-provided notices to each of its
 Employees at least once per year. The Contractor shall translate posters
 and handouts into Spanish and any other language spoken by a
 significant number of Employees.

- G. <u>Enforcement and Remedies</u>: If the Contractor fails to comply with the requirements of this sub-paragraph, the County shall have the rights and remedies described in this sub-paragraph in addition to any rights and remedies provided by law or equity.
 - 1. Remedies For Submission of Late or Incomplete

 Certified Monitoring Reports. If the Contractor submits a certified monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:
 - a. Withholding of Payment. If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until the Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.
 - b. <u>Liquidated Damages</u>. It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring

report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- b. <u>Termination</u>. The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 2. Remedies for Payment of Less Than the Required

Living Wage. If the Contractor fails to pay any Employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

- a. Withholding Payment. If the Contractor fails to pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until the Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.
- b. <u>Liquidated Damages</u>. It is mutually understood and agreed that the Contractor's failure to pay any of its Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that

the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- c. <u>Termination</u>. The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 3. <u>Debarment:</u> In the event the Contractor breaches a requirement of this sub-paragraph, the County may, in its sole discretion, bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, in accordance with Los Angeles County Code, Chapter 2.202, Determinations of Contractor Non-Responsibility and Contractor Debarment.
- H. <u>Use of Full-Time Employees</u>: The Contractor shall assign

and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time Employees based on staffing efficiency or County requirements for the work to be performed under the Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time Employees for services provided under the Contract unless and until the County has provided written authorization for the use of same. The Contractor submitted with its proposal a full-time Employee staffing plan. If the Contractor changes its full-time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the County.

- I. <u>Contractor Retaliation Prohibited</u>: The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this subparagraph may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- J. <u>Contractor Standards</u>: During the term of the Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested

to do so by the County, the Contractor shall demonstrate to the satisfaction of the County that the Contractor is complying with this requirement.

K. Employee Retention Rights:

- The Contractor shall offer employment to all retention employees who are qualified for such jobs. A "retention employee" is an individual:
 - a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and
 - b. Who has been employed by a Contractor under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new Contract, which predecessor contract was terminated by the County prior to its expiration; and
 - c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.
- 2. The Contractor is not required to hire a retention employee who:
 - a. Has been convicted of a crime related to the job or his or her performance; or

- b. Fails to meet any other County requirement for employees of a Contractor.
- 3. The Contractor shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, the Contractor may retain a retention employee on the same terms and conditions as the Contractor's other employees.
- L. Neutrality in Labor Relations: The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of the Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining Contract, or which would otherwise be permitted under the provisions of the National Labor Relations Act."
- 4. Agreement Paragraph 18, "ALTERATION OF TERMS", shall be replaced with the following:
 - "18. ALTERATION OF TERMS: The body of this Agreement including its ADDITIONAL PROVISIONS, Exhibits, and any Attachment(s) attached hereto, fully expresses all understanding of the parties concerning all matters covered and shall constitute the total Agreement.

County reserves the right to initiate Change Notices that do not affect the term, maximum obligation, statement of work, monthly cost, or payments. All

such changes shall be accomplished with an executed Change Notice signed by the Contractor and by the Director, or his designee.

Except for any of above described Change Notices, no addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid and effective unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties in the same manner as this Agreement."

- 5. Exhibit J, "Title 2 Administration, Chapter 2.201 Living Wage Program", attached hereto and incorporated by reference, is hereby added to this Agreement and replaces all references to Exhibit J.
- 6. Exhibit K, "Monthly Certification For Applicable Health Benefit Payments", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 7. Exhibit L, "Payroll Statement of Compliance", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 8. Exhibit M, "Living Wage Declaration", attached hereto and incorporated by reference, is hereby added to this Agreement.
- Exhibit N, "Model Contractor Staffing Plan and Sample Staffing Plan",
 attached hereto and incorporated by reference, is hereby added to this Agreement.
- 10. Except for the changes set forth hereinabove, Agreement shall not be changed in any other respect by this Amendment.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be subscribed by its Chairman and Contractor has caused this Amendment to be subscribed in its behalf by

its duly authorized officer, the day, month, and year first above written.

I hereby certify that pursuant to Section 25103 of the Covernment Code, delivery of this document has been made.

SACHI A. HAMAI Executive Officer

Clerk of the Board of Supervisors

COUNTY OF LOS ANGELES

Chairman, Board of Supervisors

PEOPLE SUPPORT RAPIDTEXT INC.
Contractor

Ву

Signature

LANCE ROSENZUEIGH
Print Name

Title CHIEF EXECUTIVE OFFICER
(Affix Corporate Seal)

ATTEST: SACHI A. HAMAI Executive Officer of the Board of Supervisors

By Deputy Mara

APPROVED AS TO FORM:
BY THE OFFICE OF THE COUNTY COUNSEL

Deputy

PO AD OF SUPERVISORS

28

SEP 1 6 2008

SACHI A. HAMA EXECUTIVE OFFICER

APPROVED AS TO CONTRACT ADMINISTRATION:
Department of Health Services

Kathy K. Hanks, C.P.M., Director Contract Administration and Monitoring

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Page 1 of 5

2.201.010 Findings.

The board of supervisors finds that the county of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay a living wage to their employees causes them to use such services thereby placing an additional burden on the county of Los Angeles. (Ord. 2007-0011 § 1, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.020 Definitions.

The general definitions contained in Chapter 2.02 shall be applicable to this chapter unless inconsistent with the following definitions:

- A. County" includes the county of Los Angeles, any county officer or body, any county department head, and any county employee authorized to enter into a Proposition A contract or a cafeteria services contract with an employer.
- B. Employee" means any individual who is an employee of an employer under the laws of California, and who is providing full time services to an employer, some or all of which are provided to the county of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a county of Los Angeles owned or leased facility.
- C. Employer" means:
 - 1. An individual or entity who has a contract with the county:
 - a. For services which is required to be more economical or feasible under Section 44.7 of the Charter of the county of Los Angeles, and is not listed as an excluded contract in Section 2.121.250 B of the Los Angeles County Code, referred to in this chapter as a "Proposition A contract," or
 - b. For cafeteria services, referred to in this chapter as a "cafeteria services contract." and
 - c. Who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts: or
 - 2. An individual or entity that enters into a subcontract with an employer, as defined in subsection C1 and who employs employees to provide services under the employer's contract with the county.
- D. "Full time" means a minimum 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the chief administrative officer, but in no event less than 35 hours worked per week.
- E. "Proposition A contract" means a contract governed by Title 2, Section 2.121.250 et seq. of this code, entitled Contracting with Private Business. (Ord. 2007-0011 § 2, 2007: Ord. 99-0048 § 1 (part), 1999.)

Page 2 of 5

2.201.030 Prospective effect.

This chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three months or more after the effective date of this chapter.* It shall not be applicable to Proposition A contracts or cafeteria services contracts or their amendments in effect before this chapter becomes applicable. (Ord. 99-0048 § 1 (part), 1999.)

* Editor's note: Ordinance 99-0048, which enacted Ch. 2.201, is effective on July 22, 1999.

2.201.040 Payment of living wage.

- A. Employers shall pay employees a living wage for their services provided to the county of no less than the hourly rates set under this chapter. The rates shall be \$9.64 per hour with health benefits, or \$11.84 per hour without health benefits.
- B. To qualify for the living wage rate with health benefits, an employer shall pay at least \$2.20 per hour towards the provision of bona fide health care benefits for each employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the county for evaluation during the procurement process to qualify for the lower living wage rate in subsection A of this section. Employers who provide health care benefits to employees through the county department of health services community health plan are deemed to have qualified for the lower living wage rate in subsection A of this section.
- C. The board of supervisors may, from time to time, adjust the amounts specified in subsections A and B of this section, above for future contracts. Any adjustments to the living wage rate specified in subsections A and B that are adopted by the board of supervisors shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments which become effective three months or more after the effective date of the ordinance that adjusts the living wage rate. (Ord. 2007-0011 § 3, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.050 Other provisions.

- A. Full Time Employees. An employer shall assign and use full time employees to provide services under a Proposition A contract or a cafeteria services contract, unless the employer can demonstrate to the county the necessity to use non-full time employees based on staffing efficiency or the county requirements of an individual job.
- B. Neutrality in Labor Relations. An employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.
- C. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter. The chief administrative officer in conjunction with the affirmative action compliance officer shall issue written instructions on the implementation and on-going administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.

Page 3 of 5

- D. Compliance Certification. An employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each employee and certify the hours worked, wages paid, and amounts the employer paid for health benefits, and provide other information deemed relevant to the enforcement of this chapter by the county. Such reports shall be made at the times and in the manner set forth in instructions issued by the chief administrative officer in conjunction with the affirmative action compliance officer. The affirmative action compliance officer in conjunction with the chief administrative officer shall report annually to the board of supervisors on contractor compliance with the provisions of this chapter.
- E. Contractor Standards. An employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability, integrity in employee relations, and the financial ability to pay a living wage. (Ord. 99-0048 § 1 (part), 1999.)

2.201.060 Employer retaliation prohibited.

No employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit, or any statutory benefit to any employee, person, or other entity, who has reported a violation of this chapter to the board of supervisors or to one or more of their offices, to the county chief administrative officer, or to the county auditor controller, or to the county department administering the Proposition A contract or cafeteria services contract. (Ord. 99-0048 § 1 (part), 1999.)

2.201.070 Employee retention rights.

In the event that any Proposition A contract or cafeteria service contract is terminated by the county prior to its expiration, any new contract with a subsequent employer for such services shall provide for the employment of the predecessor employer's employees as provided in this section.

- A. A "retention employee" is an employee of a predecessor employer:
 - 1. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act:
 - 2. Who has been employed by an employer under a predecessor Proposition A contract or a predecessor cafeteria services contract for at least six months prior to the date of a new contract; and
 - 3. Who is or will be terminated from his or her employment as a result of the county entering into a new contract.
- B. Subsequent employers shall offer employment to all retention employees who are qualified for such jobs.
- C. A subsequent employer is not required to hire a retention employee who:
 - 1. Has been convicted of a crime related to the job or his or her job performance; or
 - 2. Fails to meet any other county requirement for employees of a contractor.

Page 4 of 5

D. A subsequent employer may not terminate a retention employee for the first 90 days of employment under a new contract, except for cause. Thereafter a subsequent employer may retain a retention employee on the same terms and conditions as the subsequent employer's other employees. (Ord. 99-0048 § 1 (part), 1999.)

2.201.080 Enforcement and remedies.

For violation of any of the provisions of this chapter:

- A. An employee may bring an action in the courts of the state of California for damages caused by an employer's violation of this chapter.
- B. The county department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the chief administrative officer:
 - 1. Assess liquidated damages as provided in the contract; and/or
 - 2. Recommend to the board of supervisors the termination of the contract; and/or
 - 3. Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, in accordance with Section 2.202.040 of this code. (Ord. 2007-0011 § 4, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.090 Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any employer or to any employee in a manner inconsistent with United States or California laws.
- B. Collective Bargaining Agreements. Any provision of this chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. This chapter shall not be applied to any employer which is a nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code.
- D. Small Businesses. This chapter shall not be applied to any employer which is a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:
 - 1. Is not an affiliate or subsidiary of a business dominant in its field of operation; and
 - 2. Has 20 or fewer employees during the contract period, including full time and part time employees; and
 - 3. Does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$1,000,000.00; or
 - 4. If the business is a technical or professional service, does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$2,500,000.00.

EXHIBIT J-1

Title 2 ADMINISTRATION Chapter 2.201 LIVING WAGE PROGRAM

Page 5 of 5

"Dominant in its field of operation" means having more than 20 employees, including full time and part time employees, and more than \$1,000,000.00 in annual gross revenues or \$2,500,000.00 in annual gross revenues if a technical or professional service.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 99-0055 § 1, 1999: Ord. 99-0048 § 1 (part), 1999.)

2.201.100 Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 99-0048 § 1 (part), 1999.)

EXHIBIT K

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS

Instruction Box: Please complete all sections of this form (Information to complete this form and be obtained form you weekly, callifed payed nextles) Submit this form with your Certified payed Reports to the awarding County department Be sure to complete and eight the reverse side of this form before submitting.

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EXHIBIT L

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM

PAYROLL STATEMENT OF COMPLIANCE

and a		
" — Do	horoby	(Name of Owner or Company Representative) (Title)
	hereby That I p	pay or supervise the payment of the persons employed by
	that du	(Company or subcontractor name) (Service, Building or Work Site) uring the payroll period commencing on the day of ,and
	ending	(Calendar day of Month) (Month and Year) the day of all persons employed on said work site (Calendar day of Month) (Month and Year)
		been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly behalf of;
		(Company Name
	from th	the full weekly wages earned by any person and that no deductions have been made either directly or in direct the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (2 Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 10 at. 357; 40 U.S.C. 276c), and described below:
2.	comple	any payrolls otherwise under this contract required to be submitted for the above period are correct ar lete; that the wage rates for employees contained therein are not less than the applicable County ngeles Living Wage rates contained in the contract.
3.	That:	
	A.	. WHERE FRINGE (Health) BENEFITS ARE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS
		In addition to the basic hourly wage rates paid to each employee listed in the above referenced payro payments of health benefits as required in the contract have been or will be paid to appropriate programs the benefit of such employees.
	В.	. WHERE FRINGE (Health) BENEFITS ARE PAID IN CASH
		Each employee listed in the above referenced payroll has been paid, as indicated on the payroll, an amount less than the applicable amount of the required County of Los Angeles Living Wage hourly rate as list in the contract.
		iewed the information in this report and as company owner or authorized agent for this company, I sign alty of perjury certifying that all information herein is complete and correct.
Print	Name and	Title Owner or Company Representative Signature:
TH	E WILL	FUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE
		CTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. IN ADDITION, THE CTOR OR SUBCONTRACTOR MAY BE SUSPENDED AND PRECLUDED FROM BIDDING ON OR

PARTICIPATING IN ANY COUNTY CONTRACT OR PROJECT FOR A PERIOD OF THREE (3) YEARS.

EXHIBIT M



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

LIVING WAGE DECLARATION

The contract to be awarded pursuant to this Request for Proposal (RFP) is subject to the County of Los Angeles Living Wage Ordinance (Program). You must declare your intent to comply with the Program.

If you believe that you are exempt from the Program, please complete the Application for Exemption form and submit it, as instructed in the RFP, to the County awarding department.

If you are not exempt from the Program, please check the option that best describes your intention to comply with the Program. I do not have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract. I will pay an hourly wage rate of not less than \$11.84 per hour per employee. I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract but will pay into the plan less than \$2.20 per hour per employee. I will pay an hourly wage of not less than \$11.84 per hour per employee. I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract and will pay into the plan at least \$2.20 per hour per employee. I will pay an hourly wage of not less than \$9.64 per hour per employee. Health Plan(s): Company Insurance Group Number: Health Benefit(s) Payment Schedule: □ Monthly □ Quarterly □ Bi-Annual Annually (Specify) PLEASE PRINT COMPANY NAME: I declare under penalty of perjury under the laws of the State of California that the above is true and correct: SIGNATURE: DATE: PLEASE PRINT NAME: TITLE OR POSITION:

EXHIBIT N

MODEL CONTRACTOR STAFFING PLAN

AND

SAMPLE STAFFING PLAN

EXHIBIT N

COMPANY NAME COMPANY ADRESS PROJECT DEPARTMENT NAME FACILITY OR LOCATION
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MEDICAL TRANSCRIPTION SERVICES AGREEMENT

AMENDMENT NO. 7

THIS AMENDMENT is made and entered into this _____ day of SEPTEMBER 2008,

by and between

COUNTY OF LOS ANGELES

(hereafter "County"),

and

MEDQUIST TRANSCRIPTIONS, LTD. (hereafter "Contractor")

WHEREAS, reference is made to that certain document entitled "MEDICAL TRANSCRIPTION SERVICES AGREEMENT", dated July 30, 2002, and further identified as County Agreement No. 74108 and any Amendments thereto (all hereafter referred to as "Agreement"); and

WHEREAS, said Agreement provides that changes may be made in the form of a written amendment which is formally approved and executed by both parties; and

WHEREAS, it is the intent of the parties hereto to amend the Agreement to extend the term for medical transcription services scheduled to expire on September 30, 2008, for tweleve (12) months through September 30, 2009, and make the changes described hereinafter; and

WHEREAS, on February 6, 2007, the County's Board of Supervisors (Board) approved an Ordinance amending Title 2, Chapter 2.201.010 Findings, Chapter

2.201.040 Payment of Living Wage, and Chapter 2.201.080(B)(3) Enforcement and Remedies to the Los Angeles County Code, Living Wage Program, to implement an increase to the Living Wage rate from \$8.32 per hour with \$1.14 per hour in healthcare benefits and \$9.46 per hour without healthcare benefits to \$9.64 per hour with \$2.20 per hour in healthcare benefits and \$11.84 per hour without healthcare benefits; and other miscellaneous, "housekeeping" amendments to the Living Wage Ordinance.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. This Amendment shall become effective October 1, 2008.
- 2. This Amendment extends the term of the Agreement for twelve (12) months, effective October 1, 2008 through September 30, 2009, under the same rate and provisions as set forth in the Agreement. All provisions of the Agreement in effect on September 30, 2008, shall remain in effect for the extension period. Contractor shall be compensated according to the same payment provisions and same rate(s) specified for the initial term of the Agreement.
- 3. Agreement Paragraph 52, "COMPLIANCE WITH LIVING WAGE

 PROGRAM", shall be replaced with "COMPLIANCE WITH THE COUNTY'S LIVING

 WAGE PROGRAM", as follows:

"52. COMPLIANCE WITH THE COUNTY'S LIVING WAGE PROGRAM

A. <u>Living Wage Program</u>: This Contract is subject to the provisions of the County's ordinance entitled Living Wage Program as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto as "Exhibit J-1" and incorporated by reference into and made a part of this Contract.

B. Payment of Living Wage Rates:

- 1. Unless the Contractor has demonstrated to the County's satisfaction either that the Contractor is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that the Contractor qualifies for an exception to the Living Wage Program (Section 2.201.090 of the County Code), the Contractor shall pay its Employees no less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County, including, without limitation, "Travel Time" as defined below at subsection 5 of this Subparagraph B, under the Contract:
 - a. Not less than \$11.84 per hour if, in addition to the per-hour wage, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or
 - b. Not less than \$9.64 per hour if, in addition to the per-hour wage, the Contractor contributes at least \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. The Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time

during the Contract, the Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, the Contractor shall be required to pay its Employees the higher hourly living wage rate.

- 2. For purposes of this sub-paragraph, "Contractor" includes any subcontractor engaged by the Contractor to perform services for the County under the Contract. If the Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall be subject to the provisions of this sub-paragraph. The provisions of this sub-paragraph shall be inserted into any such subcontract and a copy of the Living Wage Program shall be attached to the subcontract. "Employee" means any individual who is an employee of the Contractor under the laws of California, and who is providing full-time services to the Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full-time.
- 3. If the Contractor is required to pay a living wage when the Contract commences, the Contractor shall continue to pay a living wage for the entire term of the Contract, including any option

period.

- 4. If the Contractor is not required to pay a living wage when the Contract commences, the Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement. The Contractor shall immediately notify the County if the Contractor at any time either comes within the Living Wage Program's definition of "Employer" or if the Contractor no longer qualifies for an exception to the Living Wage Program. In either event, the Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion. that the Contractor demonstrate to the County's satisfaction that the Contractor either continues to remain outside of the Living Wage Program's definition of "Employer" and/or that the Contractor continues to qualify for an exception to the Living Wage Program. Unless the Contractor satisfies this requirement within the time frame permitted by the County, the Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.
- 5. For purposes of the Contractor's obligation to pay its Employees the applicable hourly living wage rate under this

Contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract, Travel Time shall mean any period during which an Employee physically travels to or from a County facility if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time; and 2) With respect to travel by an Employee between County facilities that are subject to two different contracts between the Contractor and the County (of which both contracts are subject to the Living Wage Program). Travel Time shall mean any period during which an Employee physically travels to or from, or between such County facilities if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time.

Contractor's Submittal of Certified Monitoring Reports: The Contractor shall submit to the County certified monitoring reports at a frequency instructed by the County. The certified monitoring reports shall list all of the Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by the Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of the

Contractor's current health care benefits plan, and the Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on the forms provided by the County, or other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, the Contractor shall promptly provide such information. The Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

Violations and Claims: During the term of the Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor's contract with the County, but instead applies to any labor law/payroll violation or claim arising out of the Contractor's

operations in California.

- E. County Auditing of Contractor Records: Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at the Contractor's place of business, any of the Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. The Contractor is required to maintain all such records in California until the expiration of four (4) years from the date of final payment under the Contract. Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.
- F. Notifications to Employees: The Contractor shall place
 County-provided living wage posters at each of the Contractor's places of
 business and locations where the Contractor's Employees are working.
 The Contractor shall also distribute County-provided notices to each of its
 Employees at least once per year. The Contractor shall translate posters
 and handouts into Spanish and any other language spoken by a
 significant number of Employees.
- G. <u>Enforcement and Remedies</u>: If the Contractor fails to comply with the requirements of this sub-paragraph, the County shall have the rights and remedies described in this sub-paragraph in addition to any rights and remedies provided by law or equity.
 - Remedies For Submission of Late or Incomplete

 Certified Monitoring Reports. If the Contractor submits a certified

monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

- a. Withholding of Payment. If the Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to the Contractor up to the full amount of any invoice that would otherwise be due, until the Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.
- b. Liquidated Damages. It is mutually understood and agreed that the Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated

damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- b. <u>Termination</u>. The Contractor's continued failure to submit accurate, complete, timely and properly certified monitoring reports may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 2. Remedies for Payment of Less Than the Required
 Living Wage. If the Contractor fails to pay any Employee at least
 the applicable hourly living wage rate, such deficiency shall
 constitute a breach of the Contract. In the event of any such
 breach, the County may, in its sole discretion, exercise any or all of
 the following rights/remedies:
 - a. Withholding Payment. If the Contractor fails to

pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due the Contractor the aggregate difference between the living wage amounts the Contractor was required to pay its Employees for a given pay period and the amount actually paid to the employees for that pay period. The County may withhold said amount until the Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

b. <u>Liquidated Damages</u>. It is mutually understood and agreed that the Contractor's failure to pay any of its Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for the Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against the Contractor liquidated

damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due the Contractor.

- c. <u>Termination</u>. The Contractor's continued failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- 3. <u>Debarment:</u> In the event the Contractor breaches a requirement of this sub-paragraph, the County may, in its sole discretion, bar the Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, in accordance with Los Angeles County Code, Chapter 2.202, Determinations of Contractor Non-Responsibility and Contractor Debarment.
- H. <u>Use of Full-Time Employees</u>: The Contractor shall assign and use full-time Employees of the Contractor to provide services under the Contract unless the Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time Employees based on staffing efficiency or County requirements for the work to be performed under the Contract. It is understood and agreed that the Contractor shall not, under any circumstance, use non-full-time Employees for services

provided under the Contract unless and until the County has provided written authorization for the use of same. The Contractor submitted with its proposal a full-time Employee staffing plan. If the Contractor changes its full-time Employee staffing plan, the Contractor shall immediately provide a copy of the new staffing plan to the County.

- I. Contractor Retaliation Prohibited: The Contractor and/or its Employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any Employee, person or entity who has reported a violation of the Living Wage Program to the County or to any other public or private agency, entity or person. A violation of the provisions of this subparagraph may constitute a material breach of the Contract. In the event of such material breach, the County may, in its sole discretion, terminate the Contract.
- J. <u>Contractor Standards</u>: During the term of the Contract, the Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, the Contractor shall demonstrate to the satisfaction of the County that the Contractor is complying with this requirement.

K. Employee Retention Rights:

 The Contractor shall offer employment to all retention employees who are qualified for such jobs. A "retention employee" is an individual:

- a. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act; and
- b. Who has been employed by a Contractor under a predecessor Proposition A contract or a predecessor cafeteria services contract with the County for at least six months prior to the date of this new Contract, which predecessor contract was terminated by the County prior to its expiration; and
- c. Who is or will be terminated from his or her employment as a result of the County entering into this new contract.
- 2. The Contractor is not required to hire a retention employee who:
 - a. Has been convicted of a crime related to the job or his or her performance; or
 - b. Fails to meet any other County requirement for employees of a Contractor.
- 3. The Contractor shall not terminate a retention employee for the first 90 days of employment under the contract, except for cause. Thereafter, the Contractor may retain a retention employee on the same terms and conditions as the Contractor's

other employees.

- L. Neutrality in Labor Relations: The Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of the Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining Contract, or which would otherwise be permitted under the provisions of the National Labor Relations Act."
- 4. Agreement Paragraph 21, "ALTERATION OF TERMS", shall be replaced with the following:
 - "21. ALTERATION OF TERMS: The body of this Agreement including its ADDITIONAL PROVISIONS, Exhibits, and any Attachment(s) attached hereto, fully expresses all understanding of the parties concerning all matters covered and shall constitute the total Agreement.

County reserves the right to initiate Change Notices that do not affect the term, maximum obligation, statement of work, monthly cost, or payments. All such changes shall be accomplished with an executed Change Notice signed by the Contractor and by the Director, or his designee.

Except for any of above described Change Notices, no addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid and effective unless made in the form of a written amendment to this Agreement

which is formally approved and executed by the parties in the same manner as this Agreement."

- 5. Exhibit J-1, "Title 2 Administration, Chapter 2.201 Living Wage Program", attached hereto and incorporated by reference, is hereby added to this Agreement and replaces all references to Exhibit J.
- 6. Exhibit K, "Monthly Certification For Applicable Health Benefit Payments", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 7. Exhibit L, "Payroll Statement of Compliance", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 8. Exhibit M, "Living Wage Declaration", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 9. Exhibit N, "Model Contractor Staffing Plan and Sample Staffing Plan", attached hereto and incorporated by reference, is hereby added to this Agreement.
- 10. Except for the changes set forth hereinabove, Agreement shall not be changed in any other respect by this Amendment.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be subscribed by its

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Chairman and Contractor has caused this Amendment to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

i hereby certify that pursuant to Section 25103 of the Government Code, delivery of this document has been made.

SACHI A. HAMAI Executive Officer

Clerk of the Board of Supervisors

COUNTY OF LOS ANGELES

Chairman, Board of Supervisors

MEDQUIST TRANSCRITIONS, LTD.

Contractor

Signature

Print Name

Title (Affix Corporate Seal)

Deputy

ATTEST:

SACHI A. HAMAI Executive Officer of the Board of Supervisors

Ву

Deputy

APPROVED AS TO FORM:

BY THE OFFICE OF THE COUNTY COUNSEL

Deput

APPROVED AS TO CONTRACT ADMINISTRATION:

Department of Health Services

Kathy K. Hanks, C.P.M., Director Contract Administration and Monitoring

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Page 1 of 5

2.201.010 Findings.

The board of supervisors finds that the county of Los Angeles is the principal provider of social and health services within the county, especially to persons who are compelled to turn to the county for such services. Employers' failure to pay a living wage to their employees causes them to use such services thereby placing an additional burden on the county of Los Angeles. (Ord. 2007-0011 § 1, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.020 Definitions.

The general definitions contained in Chapter 2.02 shall be applicable to this chapter unless inconsistent with the following definitions:

- A. County" includes the county of Los Angeles, any county officer or body, any county department head, and any county employee authorized to enter into a Proposition A contract or a cafeteria services contract with an employer.
- B. Employee" means any individual who is an employee of an employer under the laws of California, and who is providing full time services to an employer, some or all of which are provided to the county of Los Angeles under a Proposition A contract, or under a cafeteria services contract at a county of Los Angeles owned or leased facility.
- C. Employer" means:
 - 1. An individual or entity who has a contract with the county:
 - a. For services which is required to be more economical or feasible under Section 44.7 of the Charter of the county of Los Angeles, and is not listed as an excluded contract in Section 2.121.250 B of the Los Angeles County Code, referred to in this chapter as a "Proposition A contract," or
 - b. For cafeteria services, referred to in this chapter as a "cafeteria services contract," and
 - c. Who has received or will receive an aggregate sum of \$25,000.00 or more in any 12 month period under one or more Proposition A contracts and/or one or more cafeteria services contracts; or
 - 2. An individual or entity that enters into a subcontract with an employer, as defined in subsection C1 and who employs employees to provide services under the employer's contract with the county.
- D. "Full time" means a minimum 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the chief administrative officer, but in no event less than 35 hours worked per week.
- E. "Proposition A contract" means a contract governed by Title 2, Section 2.121.250 et seq. of this code, entitled Contracting with Private Business. (Ord. 2007-0011 § 2, 2007: Ord. 99-0048 § 1 (part), 1999.)

Page 2 of 5

2.201.030 Prospective effect.

This chapter shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments the terms of which commence three months or more after the effective date of this chapter.* It shall not be applicable to Proposition A contracts or cafeteria services contracts or their amendments in effect before this chapter becomes applicable. (Ord. 99-0048 § 1 (part), 1999.)

* Editor's note: Ordinance 99-0048, which enacted Ch. 2.201, is effective on July 22, 1999.

2.201.040 Payment of living wage.

- A. Employers shall pay employees a living wage for their services provided to the county of no less than the hourly rates set under this chapter. The rates shall be \$9.64 per hour with health benefits, or \$11.84 per hour without health benefits.
- B. To qualify for the living wage rate with health benefits, an employer shall pay at least \$2.20 per hour towards the provision of bona fide health care benefits for each employee and any dependents during the term of a Proposition A contract or a cafeteria services contract. Proof of the provision of such benefits must be submitted to the county for evaluation during the procurement process to qualify for the lower living wage rate in subsection A of this section. Employers who provide health care benefits to employees through the county department of health services community health plan are deemed to have qualified for the lower living wage rate in subsection A of this section.
- C. The board of supervisors may, from time to time, adjust the amounts specified in subsections A and B of this section, above for future contracts. Any adjustments to the living wage rate specified in subsections A and B that are adopted by the board of supervisors shall be applicable to Proposition A contracts and cafeteria services contracts and their amendments which become effective three months or more after the effective date of the ordinance that adjusts the living wage rate. (Ord. 2007-0011 § 3, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.050 Other provisions.

- A. Full Time Employees. An employer shall assign and use full time employees to provide services under a Proposition A contract or a cafeteria services contract, unless the employer can demonstrate to the county the necessity to use non-full time employees based on staffing efficiency or the county requirements of an individual job.
- B. Neutrality in Labor Relations. An employer shall not use any consideration received under a Proposition A contract or a cafeteria services contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of an employer's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.
- C. Administration. The chief administrative officer shall be responsible for the administration of this chapter. The chief administrative officer may, with the advice of county counsel, issue interpretations of the provisions of this chapter. The chief administrative officer in conjunction with the affirmative action compliance officer shall issue written instructions on the implementation and on-going administration of this chapter. Such instructions may provide for the delegation of functions to other county departments.

Page 3 of 5

- D. Compliance Certification. An employer shall, during the term of a Proposition A contract, or a cafeteria services contract, report for each employee and certify the hours worked, wages paid, and amounts the employer paid for health benefits, and provide other information deemed relevant to the enforcement of this chapter by the county. Such reports shall be made at the times and in the manner set forth in instructions issued by the chief administrative officer in conjunction with the affirmative action compliance officer. The affirmative action compliance officer in conjunction with the chief administrative officer shall report annually to the board of supervisors on contractor compliance with the provisions of this chapter.
- E. Contractor Standards. An employer shall demonstrate during the procurement process and for the duration of a Proposition A contract or a cafeteria services contract a history of business stability, integrity in employee relations, and the financial ability to pay a living wage. (Ord. 99-0048 § 1 (part), 1999.)

2.201.060 Employer retaliation prohibited.

No employer shall take an adverse action causing a loss of any benefit of employment, of any contract benefit, or any statutory benefit to any employee, person, or other entity, who has reported a violation of this chapter to the board of supervisors or to one or more of their offices, to the county chief administrative officer, or to the county auditor controller, or to the county department administering the Proposition A contract or cafeteria services contract. (Ord. 99-0048 § 1 (part), 1999.)

2.201.070 Employee retention rights.

In the event that any Proposition A contract or cafeteria service contract is terminated by the county prior to its expiration, any new contract with a subsequent employer for such services shall provide for the employment of the predecessor employer's employees as provided in this section.

- A. A "retention employee" is an employee of a predecessor employer:
 - 1. Who is not an exempt employee under the minimum wage and maximum hour exemptions defined in the federal Fair Labor Standards Act;
 - 2. Who has been employed by an employer under a predecessor Proposition A contract or a predecessor cafeteria services contract for at least six months prior to the date of a new contract; and
 - 3. Who is or will be terminated from his or her employment as a result of the county entering into a new contract.
- B. Subsequent employers shall offer employment to all retention employees who are qualified for such jobs.
- C. A subsequent employer is not required to hire a retention employee who:
 - 1. Has been convicted of a crime related to the job or his or her job performance; or
 - 2. Fails to meet any other county requirement for employees of a contractor.

Page 4 of 5

D. A subsequent employer may not terminate a retention employee for the first 90 days of employment under a new contract, except for cause. Thereafter a subsequent employer may retain a retention employee on the same terms and conditions as the subsequent employer's other employees. (Ord. 99-0048 § 1 (part), 1999.)

2.201.080 Enforcement and remedies.

For violation of any of the provisions of this chapter:

- A. An employee may bring an action in the courts of the state of California for damages caused by an employer's violation of this chapter.
- B. The county department head responsible for administering a Proposition A contract or a cafeteria services contract may do one or more of the following in accordance with such instructions as may be issued by the chief administrative officer:
 - 1. Assess liquidated damages as provided in the contract; and/or
 - 2. Recommend to the board of supervisors the termination of the contract; and/or
 - Recommend to the board of supervisors that an employer be barred from award of future county contracts for a period of time consistent with the seriousness of the employer's violation of this chapter, in accordance with Section 2.202.040 of this code. (Ord. 2007-0011 § 4, 2007: Ord. 99-0048 § 1 (part), 1999.)

2.201.090 Exceptions.

- A. Other Laws. This chapter shall not be interpreted or applied to any employer or to any employee in a manner inconsistent with United States or California laws.
- B. Collective Bargaining Agreements. Any provision of this chapter shall be superseded by a collective bargaining agreement that expressly so provides.
- C. This chapter shall not be applied to any employer which is a nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code.
- D. Small Businesses. This chapter shall not be applied to any employer which is a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:
 - 1. Is not an affiliate or subsidiary of a business dominant in its field of operation; and
 - 2. Has 20 or fewer employees during the contract period, including full time and part time employees; and
 - 3. Does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$1,000,000.00; or
 - 4. If the business is a technical or professional service, does not have annual gross revenues in the preceding fiscal year which if added to the annual amount of the contract awarded exceed \$2,500,000.00.

Page 5 of 5

"Dominant in its field of operation" means having more than 20 employees, including full time and part time employees, and more than \$1,000,000.00 in annual gross revenues or \$2,500,000.00 in annual gross revenues if a technical or professional service.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation. (Ord. 99-0055 § 1, 1999: Ord. 99-0048 § 1 (part), 1999.)

2.201.100 Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. 99-0048 § 1 (part), 1999.

EXHIBIT K

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

MONTHLY CERTIFICATION FOR APPLICABLE HEALTH BENEFIT PAYMENTS

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EXHIBIT L

COUNTY OF LOS ANGELES - LIVING WAGE PROGRAM PAYROLL STATEMENT OF COMPLIANCE

complete; that the wage rates for employees contained therein are not less than the applicable County Los Angeles Living Wage rates contained in the contract. That: A. WHERE FRINGE (Health) BENEFITS ARE PAID TO APPROVED PLANS, FUNDS OR PROGRAMS In addition to the basic hourly wage rates paid to each employee listed in the above referenced payror payments of health benefits as required in the contract have been or will be paid to appropriate programs of the benefit of such employees. B. WHERE FRINGE (Health) BENEFITS ARE PAID IN CASH Each employee listed in the above referenced payroll has been paid, as indicated on the payroll, an amoun not less than the applicable amount of the required County of Los Angeles Living Wage hourly rate as list in the contract. Thave reviewed the information in this report and as company owner or authorized agent for this company, I sign inder penalty of perjury certifying that all information herein is complete and correct. Owner or Company Representative Signature: WHERE FRINGE (Health) BENEFITS ARE PAID IN CASH Owner or Company Representative Signature:	3					
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PARTICIPATING IN ANY COUNTY CONTRACT OR PROJECT FOR A PERIOD OF THREE (3) YEARS.

EXHIBIT M



COUNTY OF LOS ANGELES LIVING WAGE ORDINANCE

LIVING WAGE DECLARATION

The contract to be awarded pursuant to this Request for Proposal (RFP) is subject to the County of Los Angeles Living Wage Ordinance (Program). You must declare your intent to comply with the Program.

			t from the Program, please RFP, to the County award	e complete the Application fo ding department.	or Exemption form
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	PRINT COMPANY				
		nalty of perjury unc	der the laws of the State of C	California that the above is true	e and correct:
SIGNATUR	RE:			DATE:	
PLEASE !	PRINT NAME:			TITLE OR POSITION:	

EXHIBIT N

MODEL CONTRACTOR STAFFING PLAN AND

SAMPLE STAFFING PLAN

EXHIBIT N

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OVERFLOW MEDICAL TRANSCRIPTION SERVICES AGREEMENT

AMENDMENT NO. 8

THIS AMENDMENT is made	and entered into this day of
2008,	
by and between	COUNTY OF LOS ANGELES (hereafter "County"),
and	PEOPLESUPPORT RAPIDTEXT, INC. (hereafter "Contractor")

WHEREAS, on August 4, 1998, County and MedText, Inc. ("MedText"), dba
RapidText, Inc. ("RapidText") entered into a "OVERFLOW MEDICAL TRANSCRIPTION
SERVICES AGREEMENT" for the provision of overflow medical transcription services,
further identified as County Agreement No. H-209835 and any Amendments thereto (all hereafter referred to as "Agreement"); and

WHEREAS, on April 18, 2006, the County of Los Angeles Board of Supervisors approved a "CONSENT TO CHANGE OF OWNERSHIP AND STOCK PURCHASE TRANSACTION" and thereafter the new corporate name became "PeopleSupport RapidText, Inc."; and

WHEREAS, said Agreement provides that changes may be made in the form of a written amendment which is formally approved and executed by both parties; and

WHEREAS, it is the intent of the parties hereto to amend the Agreement to extend the term for overflow medical transcription services scheduled to expire on September 30, 2007, for twelve (12) through September 30, 2008, and make the changes described hereinafter.

NOW, THEREFORE, the parties hereto agree as follows:

- 1. This Amendment shall become effective on October 1, 2008.
- 2. This Amendment extends the term of the Agreement for twelve (12) months effective October 1, 2008 through September 30, 2009, under the same rate and provisions as set forth in the Agreement. All provisions of the Agreement in effect on September 30, 2008, shall remain in effect for the extension period. Contractor shall be compensated according to the same payment provisions and same rate(s) specified for the initial term of the Agreement.
- 3. Agreement Paragraph 17, "<u>ALTERATION OF TERMS</u>", shall be replaced with the following:
 - "17. ALTERATION OF TERMS: The body of this Agreement including its ADDITIONAL PROVISIONS, Exhibits, and any Attachment(s) attached hereto, fully expresses all understanding of the parties concerning all matters covered and shall constitute the total Agreement.

County reserves the right to initiate Change Notices that do not affect the term, maximum obligation, statement of work, monthly cost, or payments. All such changes shall be accomplished with an executed Change Notice signed by the Contractor and by the Director, or his designee.

Except for any of above described Change Notices, no addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents, or employees, shall be valid and effective unless made in the form of a written amendment to this Agreement which is formally approved and executed by the parties in the same manner as this Agreement."

4. Except for the changes set forth hereinabove, Agreement shall not be changed in any other respect by this Amendment.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this Amendment to be subscribed by its

Director and Contractor has caused this Amendment to be subscribed in its behalf by its duly authorized officer, the day, month, and year first above written.

COUNTY OF LOS ANGELES
By John F. Schunhoff, Interim Director
John F. Johannon, memin Director
PEOPLESUPPORT RAPIDTEXT, INC.
By
(Printed Name)
(Signature)
Title
(AFFIX CORPORATE SEAL HERE)

APPROVED AS TO FORM
BY THE OFFICE OF THE COUNTY COUNSEL:
Raymond G. Fortner
County Counsel

APPROVED AS TO CONTRACT ADMINISTRATION:
Department of Health Services

Kathy K. Hanks, C.P.M., Director Contract Administration and Monitoring

H-209835-8 LACUSCoverflow_LVB 08/28/08